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The Implementation of Case Management in Family Law

A WORKBOOK

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Editors

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I The Case for Case Management in Family Law¹

Case Management will be one of the key components of court reform in Ontario. It is a system whose time has come. It is a system which will likely be in place throughout Ontario's courts before the end of this decade--six years away. And it is a system which will require the judiciary, the bar and court staff to conduct business co-operatively, and in new ways.

The three most common questions currently being asked about case management are:

1. Why is case management necessary?
2. How does it work? And
3. Will it improve the administration of justice in Ontario?

1. Why is Case Management Necessary?

Delay

Court reformers have long recognized the need to conclude disputes fairly and promptly. But unwarranted or unreasonable delay remains a tenacious problem affecting the justice system.

Numerous studies have shown that the factor most commonly given as a reason for dissatisfaction with the courts is delay. And yet, justice delayed is justice denied.

Unreasonable delay in the administration of justice postpones the rectification of wrongs, and the vindication of the unjustly accused. It causes crowded court dockets. It increases costs for litigants and for taxpayers. It interferes with the prompt disposition of those cases in which parties are ready and prepared for trial. It increases the possibility of error as the time between the original fact and its judicial determination elapses. And it greatly increases the personal stress of litigants whose lives are put on hold. It is a cloud hanging over the entire judicial process.

Until recently, delay has been considered to be a problem that is

¹Joint Committee on Court Reform (CBA-O), May, 1994

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almost insurmountable. But the dynamics of court delay are understood much better now than in the past. There are remedies to address it and resources to combat it.

The first step towards defeating unreasonable delay is to accept that it can, and must, be eliminated. The question is not **whether** the problem should be solved, but **how** it should be done.

There have been many suggestions about how unwarranted delay can be reduced. They include: providing the system with more resources--more money, more judges, more administrators, more courtrooms, and son on; and limiting the demand for court services by restricting access to the courts. But clearly, the former isn't affordable; and the latter is simply unjust.

Case management has proven to be an efficient system for addressing the problem of unreasonable delay. It reduces the time that elapses between the initiation of a case and its disposition, and thus significantly enhances the court's ability to provide expeditious justice.

But case management also requires all participants in the court system to re-think their roles and to perform their jobs in a completely different manner. So it requires a considerable amount of adjustment on the part of bench, bar and administration.

The term "case management"--or "case-flow management" as it is known in some jurisdictions--first came into general use in the United States about 20 years ago. In the United States, and in Australia and England, the spiralling demand for court services and the increasing cost of litigation spurred an interest among the bench, bar and government in finding alternative and effective ways of managing the business of the courts.

In 1988, in Ontario, the Joint Committee on Court Reform--an umbrella organization representing the legal profession--recommended to the provincial government the establishment of case management pilot projects.

In 1990, the Askov decision caused the public to question the justice system's ability to administer its caseload effectively, and

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its capacity to meet the justice needs of the province. Askov gave greater prominence to the issue of the right of litigants and accused persons to obtain an expeditious resolution of their cases. It also raised awareness of related issues such as: the high cost of justice; the need for efficient use of public resources, inadequate resources such as court facilities; the number of judges, crown and so on.

2. How Does Case Management Work

Goals

Case management seeks to reduce the time and cost required for a case to proceed through the system from initial filing to resolution. The goals of case management are:

- (a) To reduce the delays between the various stages of a proceeding;
- (b) To facilitate earlier resolutions in more lawsuits; and
- (c) To reduce the cost of litigation.

Definition

Case management is defined as a system that manages the time and events of a lawsuit as it passes through the justice system from the initiation of a case until it is resolved through withdrawal, settlement, trial or other disposition.

A reduction in the duration of a lawsuit will often decrease the time spent by the parties and their lawyers, and can consequently reduce the cost of litigation to both the litigants and the justice system. The reduction of costs allows for increased access to the courts by a broader range of Ontarians.

Further public savings are realized by reducing the number of expensive court services required--especially trials with their heavy demands on courtroom, judicial and administrative resources. It is currently estimated that trials and other types of hearings consume more than 50 per cent of court resources.

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The Critical Elements

Case management has five critical elements:

- (a) Access to early judicial intervention, in cases where such intervention is warranted--and, in some courts, continuous court supervision of each case.
- (b) Adoption of time goals. The time goals differ according to the complexity of the case being heard. In most systems, there are two or more time goals (or tracks). This ensures that a case is disposed of in a timely fashion. In some cases, this will mean that deadlines for specific events are set.
- (c) Monitoring of some cases to ensure that scheduled events are concluded on time. In some case management systems, time is computed from the initiation of a proceeding--this is called the Day One System. In other, time is computed from the immediately preceding event--for example, from the filing of a pleading. This is known as the Event-Driven System.
- (d) Response by the Court to a failure to comply with deadlines (e.g. the Registrar could dismiss the case, or the case management judge could call a case conference if a deadline isn't met.)
- (e) Provision of trial dates that can generally be relied upon. The trial dates should be fixed and should be within the timetable established by the Case Management Rules.

So there are two essential components to case management:

- A timetable for pre-determined events in the evolution of a lawsuit;
- and easy access to judicial intervention where it is needed--and, in some courts, continuous judicial supervision of cases.

Implications of the essential elements

The roles and responsibilities of the three key participants--bench,

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bar and courts administration-- are all affected by case management.

Traditionally, litigation has been lawyer-driven. Cases have proceeded according to lawyers' own priorities or agendas. This has resulted in court administration staff having either to underbook or overbook the courts. They underbook the courts because they schedule too few cases--to allow all cases to go forward. Or they schedule too many cases--to allow for cases that do not go forward. The lack of reliable information about individual cases and about the court's caseload has hindered the efficient management of the business and the resources of the court.

Case management sees the flow of cases as a single process that must be monitored from the point where a matter is initiated until it is finally disposed of. In addition, cases must be monitored individually in order to be effectively managed. In both instances, courts administration and case management judges have to be provided with the information they need for proper monitoring. Because of the volume of cases involved and the number of factors that have to be monitored, this can usually only be efficiently handles through computerization (although it is handled manually in some courts).

Since there is little point in computerization inadequate or inappropriate court systems, the implementation of case management has provided the courts with a good opportunity to examine all their systems, practices and procedures and to change them where necessary--*Business Process Re-engineering*. The implementation of modern business methods is central to the realization of the full potential of case management.

In case management, bench, bar and courts administration o longer work in relative isolation from each other. A co-ordinated, joint effort of judges, lawyers and courts administration personnel is required for effective case management. Case management requires bench, bar and courts administration staff to approach their responsibilities form a new perspective. It requires them not only to do their own jobs differently but to work in a new way

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with each other. So working relationships between these three partners will change.

Impact on the Bench

Under case management, the bench becomes much more involved in the management of cases in the court system.

- Case management judges help counsel adhere to a timeframe. In some courts, they more actively direct counsel as to the manner in which a case will be conducted.
- They can, on their own motion, compel compliance with their directions, the Case Management Rules, and the timetable.
- They must ensure that settlement is discussed and, wherever possible, that settlement is reached, as soon as possible in the proceeding. This includes discussing the advisability of Alternative Dispute Mechanisms.
- And they must ensure that their caseloads are managed in conformance with established time standards.

Impact on the Bar

- Counsel must comply with the Case Management Rules and manage their clients' lawsuits so the timetables are complied with. They must also tell their clients about the timetable.
- They have to be well prepared at each stage of the proceeding because they may appear before the same judge, or team of judges throughout the proceeding.
- They must be prepared to address settlement at any stage in the proceeding--and earlier than usual.
- And they are accountable to the court for failure to comply with the Case Management Rules and timetables.

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Impact on Courts Administration

- Courts administration staff are responsible for setting up manual or computerized systems to monitor individual cases and for providing the case management case flow.
- They are responsible for producing reports for administration for use in efficient court management and resource allocation.
- They provide all the necessary personnel and technological support--e.g. personal computers, e-mail, voice-mail, fax, etc.
- They may take the required action when the Case Management Rules or timetables aren't complied with--e.g. sending out notices, or dismissing proceedings.
- And they are responsible for monitoring, assessing and changing procedures on an ongoing basis.

3. Will Case Management Improve the Administration of Justice in Ontario?

The Case for Case Management

Implementation of the case management system requires not only changes in the practices and procedures of the three main participants in the courts, but also the infusion of significant financial and technological resources. No organization, in either the public or the private sector, would be willing to implement radical change or to provide the significant resources required to support it, unless there was firm evidence of its effectiveness in achieving its goals. Even if the cost of such resources will be recovered from the savings that result from increased efficiency, a substantial initial capital outlay is required--for computerization, for example.

That is why the effectiveness of case management has been thoroughly analyzed.

In the United States, for example, where case management has

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been in operation for more than two decades, a number of studies have demonstrated that case management works. A 1987 study conducted by the National Centre for State Courts of 26 cities over a period of 12 years concluded that courts that employed case management in a committed fashion significantly reduced delay. A recent study undertaken by the Ministry of the Attorney General here in Ontario shows that the case management pilot projects are having similar results.

In its study, the ministry measured the pilot projects' progress towards three goals: the reduction in unwarranted delay; the reduction in costs of the parties; and enhanced efficiency of courts administration. The conclusion of the report was that the projects were successful in achieving the stated goals--but that there is room for improvement.

The studies found, for example:

- That case management has reduced the delay between most stages in proceedings and has substantially reduced the overall passage of time from commencement to resolution.
- That, while there is no **direct** evidence as to the impact on client's costs, in a system where clients are billed on the basis of the time spent by lawyers, innovations that require less time to be spent on files should result in a reduction in parties' costs. Anecdotal evidence from member of the bar notes that their accounts for case-managed files are lower than others. (And, of course, if it takes lawyers a shorter time to complete their files, then they can take on more files.)
- The study also found that, at all sites, the costs per file of case-managed files are equivalent to, or lower than, for non-case managed files. In addition, the study shows that, even in the early pilot projects stages, early settlement rates can greatly reduce demands on judicial and administrative resources an on court facilities.

The cost benefits of case management can be expected to increase further over time since the costs associated with the pilot projects (such as staff training and the introduction of automated systems)

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disappear when case management becomes a fully integrated system.

Unresolved Issues in Case Management

As in any major change in practice and procedure, there are a number of issues to be resolved before case management can be implemented across the province:

Rules of Procedure:

There are currently four sets of different Case Management Rules for the three Ontario pilot sites. A set of Case Management Rules to apply to the entire province, with perhaps local options for solving local problems, must be developed.

The Calendar System:

Either an individual or a master calendar system must be used to assign cases to judges on a province-wide basis; or the type of calendaring used may be a local option.

Hardware:

All of the appropriate hardware to make case management truly effective should be provided--such as computers, e-mail, fax machines, conference call and voice-mail systems that allow for speedy communications between the court, the lawyer and the parties, and deal with motions and the granting and transmission of court orders.

Software:

A software program that responds to Ontario's needs should be developed. This program would provide the requisite monitoring schedule readjustment, and motion production needs; produce management reports; and report on all aspects of the operation. In the future, the capacity to file documents electronically and a "read-only" capacity available to the bar and to self-represented parties should both be provided.

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Backlog:

Solving the "backlog" problem does not solve the delay problem. Until there is a system of case management, there will always be a backlog. The backlog must be dealt with as part of the introduction and operation of case management. Tackling this problem will be a priority of the recently appointed Court Review Task Force.

"Backlog" consists of: a) the inventory of cases pending before the court when case management is introduced; and b) of those cases awaiting trials that have been unduly delayed.

The "inventory backlog" can be dealt with by the inclusion of all pending cases in the new system when case management is introduced; or by maintaining both the case management system and the "old" system and by transferring cases into the case management system individually as required. This must be done as quickly as possible to minimize the expense and complexity of maintaining two systems.

The "trial backlog" must be eliminated in order to allow the fixing of trial dates within the timetable. Trial lists must be "purged" to eliminate settled or abandoned cases. Pre-trial conferences and trials must be "blitzed" by the use of additional judges.

Time standards:

Time standards must be examined to ensure that timetables are capable of responding to the different needs of particular types of cases and to the different needs of varying geographic regions.

Early judicial involvement:

Early judicial involvement at the beginning of a case must be provided. At that point, the judge can attempt to limit the issues, to explore the possibility of full or partial compromise, or to refer the matter to a mediation service or other alternative service.

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Judicial management:

Where it is feasible, judges must be enabled to deal with all matters arising in an action. The judge should be provided with the time, staff and technical resources to do so--e.g. conference calls and faxed motions which will enable the judge to manage his or her cases while on circuit or rotation.

These, and other important issues, still need to be resolved and the province will need to complete a full and objective evaluation of case management's effectiveness before it supports full implementation.

Case management is not the **only** approach to solving all of the courts' ills. It is simply a comprehensive set of measures that improves the quality of justice and the efficiency with which it is delivered.

It is also a model of bench, bar and ministry co-operation. In the process of working on the pilot projects, these three participants have learned a great deal from each other; have learned how to work effectively together; and have all made compromises of one kind or another for the common good.

Case management has been an example of a successful partnership because all partners have had the same goal in mind--high quality and timely justice delivered in an effective and efficient manner.

The spirit of co-operation between bench, bar and courts administration that has marked their pioneering work to date must continue as case management becomes a reality in Ontario's courts.

N O T E S

II The Rules and Forms

- simple and short
- collaboration
- workable timetable with regular review and revision
- the uses of the Request Form:
 1. To request an adjournment;
 2. To request an extension of the timetable;
 3. To request that a motion be heard by teleconference;
 4. To request interim and final orders (including Agreed Statements of Fact in C.F.S.A. matters) on consent;
 5. To request substitutional service, or an order that all reasonable efforts to serve a party have been made;
 6. To request clarification of an order;
 7. To request an order for an assessment;
 8. To request an order to obtain and file blood tests, on consent;
 9. To request an order for disclosure;
 10. To request a date for an unopposed hearing;
 11. To request an amendment of an order;
 12. To seek directions; or,
 13. For any other appropriate use, as directed by the judge.

*** *The Rules and Forms* ***

N O T E S

Comparison of the Three Sets of Rules

SCOPE	TORONTO	ALGOMA	ESSEX
	Applies to : 1) Actions in General Division	Applies to family proceedings commenced in district R.1(1)	Applies to family proceedings commenced in district R.1
	2) Applications in Provincial Division including proceedings under the Child and Family Services Act (C.F.S.A.) Rule 1.01(1)		
	3) Does not apply to: (i) uncontested divorces (ii) applications in General Division		
TRACKS AND TIMING	2 Tracks	3 Tracks	2 Tracks
	All proceedings except those under Child and Family Services Act to be completed within not more than 230 days.	EXPEDITED (R.7) (total time 220 days)	ACTIONS (R.8) (total time 1 year)
	1) Service and filing proof of service of originating document to be completed within not more than 30 days.	1) Serving and filing of Statement of Claim and Case Information Statement within 40 days.	1) Service of documents by Plaintiff within 30 days after day 1 and filing within 40 days after day 1. However, proof of service not required when Defendant files documents within 40 days after day 1.
	2) Filing of Defence to be completed within not more than 70 days.	2) Statement of Defence to be served and filed not later than 70 days after day 1 unless subrule 1(3) prescribes an earlier time.	2) Defendant to serve documents within 30 days after service and file with proof of service within 40 days after that date.
	3) Case Conference to be completed within not more than 80 days	3) Registrar to set Pre – Trial Conference within 100 days after day 1.	3) Reply to be delivered within 20 days after delivery of defence documents.

TRACKS AND TIMING CONTINUED

- 4) Settlement Conference (by which time all discovery and assessments are to be completed) to be completed within not more than 170 days.

- 5) Hearing to be completed within not more than 230 days.

Proceedings under C.F.S.A.

- 1) First hearing after apprehension of child to be completed within not more than 5 days.
- 2) Temporary care and custody hearing including appointment of counsel to be completed within not more than 25 days.

- 3) Case Conference to be completed within not more than 35 days.

- 4) Settlement Conference to be completed within not more than 80 days.

- 5) Hearing to be completed within not more than 120 days.

Rule 2.03 and Schedule A

- 4) Pre – Trial Conference to be held not more than 160 days after day 1 but at least 30 days after the fixing of its date.

- 5) Trial to begin not more than 220 days after day 1 but at least 30 days after Pre – Trial Conference.

STANDARD (R.8) (total time 340 days)

- 1) Service and filing of Statement of Claim within 40 days.
- 2) Serving and filing of Statement of Defence not later than 100 days after day 1 unless subrule 1(3) prescribes an earlier time.

- 3) Registrar to set Pre – Trial Conference within 130 days after day 1.

- 4) Pre – Trial Conference to be held not more than 250 days after day 1 but at least 30 days after fixing of its date.

- 5) Trial shall begin not more than 340 days after day 1 but at least 30 days after the Pre – Trial Conference.

COMPLEX (R.9) (total time 3 years)

- 1) Serving and filing of Statement of Claim within 40 days.

- 4) Court to fix date for Management Conference which shall be at least 45 days but not more than 75 days after delivery of defence documents.

- 5) Plaintiffs shall serve and file Record and list the action for Trial within 45 days after the close of pleadings.

- 6) Date for Pre – Trial Conference to be set at the Management Conference.

- 7) Trial date to be set at Pre – Trial Conference which will be at least 30 days after the Pre – Trial Conference.

FAMILY VARIATION APPLICATIONS (R.13) (total time 6 months)

- 1) When Notice of Application issued, hearing date shall be obtained which is at least 45 days but not more than 60 days after day 1 (later times if Respondent not in Ontario).

- 2) Applicant shall serve documents within 10 days after day 1 and file them with proof of service within 17 days after day 1.

- 3) Respondent shall serve responding documents within 10 days after date of service and file same with proof of service within 15 days after that date.

TRACKS AND TIMING CONTINUED

- 4) Settlement Conference to take place on the hearing date.
- 5) At Pre-Trial Conference individual presiding shall set date for Pre-Trial Conference (if necessary), a date for the hearing, and a date after which no party may examine or make Motions without leave.

2) Service and filing of Statement of Defence within 100 days after day 1 unless subrule 1(3) prescribes an earlier date.

3) Case Management Judge to hold Case Conference within 30 days after filing of Statement of Defence and shall set the estimated times for the holding of the pre-trial conference and the Trial.

4) Trial to begin within 3 years after day 1.

Same
R.2

Same
R.1(2)

Rules of Civil Procedure (or rules of Ontario Court (Provincial Division)) apply, but in case of conflict these Rules apply.
R.1.01(2)

ORDINARY RULES OF COURT:

The court may extend or abridge time.
R.3.1

1) Parties may agree, at any time, to abridge time.

2) Case Management Judge at Case Conference, change track, abridge or extend time.
R.6

Time may be EXTENDED by order of Case Management Judge
R.1.01(3)

Can be amended on consent at Case Conference – R.3.02(7) or by Judge
R.3.02(3)

Where reconciliation attempted, time can be suspended for up to 90 days.
R.1.01(4) Form 1

TIME (CHANGING)

CASE INFORMATION STATEMENT	At commencement of proceeding must file Case Information Statement (Rule 2.01; Forms 2 or 3)	Same R.4; Form 1	Same R.5; Form 1
	Must be served on Defendant Rule 2.03(3)	Defendant must reply R.5	Court prepares a Case Management Order (Form 4) to be served on Defendant.
	Also served on Defendant is: 1) Timetable 2) Warning (Form 4) R.2.02(3); R.2.03		
CASE MANAGEMENT JUDGE	Assigned to Case Management at outset R.2.02	Same R.12	No specific rule
	DUTIES: Deal with all matters that arise in proceeding before the hearing including Motions, Case Management Conferences, and Settlement Conferences. R.3.01	Same	Same
	Not to preside at Trial.	Same	No specific provision with respect to actions – R.8, paragraph 26 but cannot preside at Trial of Applications – R.13; Paragraph 16

FAILURE TO COMPLY WITH TIMETABLE	Case Management Judge given broad powers to amend, strike out documents, dismiss proceeding, strike out proceeding, etc. R.2.04	Same	R.8; Paragraph 2
DISMISSED BY REGISTRAR	Registrar has certain specific powers if Applicant does not file proof of service or fails to obtain default judgment. R.2.05; R.2.07		Similar to Toronto R.8; Paragraph 2
DEFAULT PROCEEDINGS	Registrar to note default automatically. Plaintiff also has right to not Defendant in default. R.2.06	Similar only with respect to Plaintiff. R.1(4) Nothing specific with respect to action by Registrar.	Registrar has power to note Defendant in default. R.8; Paragraph 5 Plaintiff probably can do so also. R.3
CASE CONFERENCE	To be held within 80 days. (35 days in matters under C.F.S.A.) Parties to attend Silent with respect to documents. There may be further conference. R.3.02	1) May be held at any time at request of party or Case Management Judge. 2) With Complex Track, a Case Conference shall be held within 30 days of filing of Defence.	FAMILY TRACK 1) Management Conference within 45 to 75 days after delivery of Answer or Statement of Defence. 2) Parties to attend

**CASE
CONFERENCE
CONTINUED**

- 3) Case Management Judge may require parties to attend.
- 4) May be done by telephone.
- 5) No documents need be filed unless Case Management Judge directs.
R.13

- 3) Documents must be filed.
- 4) Sanctions for failure to comply.
R.8

VARIATION APPLICATIONS

- 1) Settlement Conference.
- 2) On hearing date (45 to 60 days if Respondent in Ontario).
- 3) Parties shall attend
- 4) Documents to be filed.
- 5) Sanctions for failure to do so.
R.13

MOTIONS

Has procedure for informal Motions and Motions without material.
R.3.01(3)(4)

**PRE-TRIAL
CONFERENCE**

Settlement Conference to be held within 170 days (80 days in proceedings under C.F.S.A.).

Parties to deliver a brief.
R.4.01

FAMILY TRACK

Expedited Track within 160 days.

Standard Track within 250 days.

Complex Track set at Case Conference.

- 1) Date set at the Case Management Conference.

- 2) Briefs to be filed.

- 3) Parties to attend.

4) Trial date set at Pre-Trial.
R.8

Trial Record required as well as a
pre-trial brief.
R.7,8,9,10

Statement of Net Family Property
(if in issue)

VARIATION APPLICATIONS

1) Date set at settlement
conference (if necessary).

2) Parties to attend unless ordered.
R.13

Has provision for Alternate Dispute
Resolution by agreement of parties.

Non-binding.

Judge, on consent of parties,
can do so at Case Conference.
R.3.2(5)(c)

**PRE-TRIAL
CONFERENCE
CONTINUED**

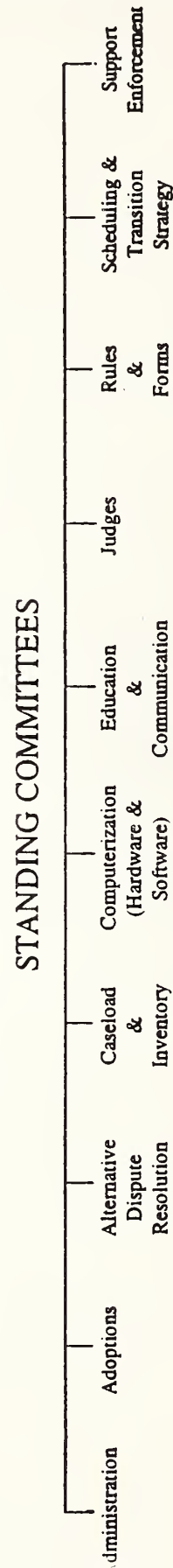
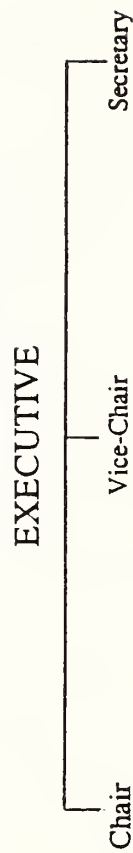
**ALTERNATE
DISPUTE
RESOLUTION**

III How to Set Up a Case Management Operations Committee

- purpose of the Operations Committee is to implement and monitor a case management system
- a successful system requires the collaboration of judges, lawyers, agencies, related services and administration
- partnership of all players within the justice system
- important to encourage equal voice to constituents to promote participation
- there should be a permanent executive committee designed along co-management principles
- all three main stakeholders must see need and rationale
- need for identifiable leadership and commitment among three major stakeholders
- period of time (months) to implement
- suggested Operations Committee (OpsCom) structure

SUGGESTED CASE MANAGEMENT OPERATIONS COMMITTEE

*How to Set Up a
* Case Management Operations Committee **



***How to Set Up a
* Case Management Operations Committee ****

- membership of OpsCom
- functions and membership of each standing committee
- terms of reference for committees:
 - (a) Administration Committee
 1. The assignment of staff to judges by teams or otherwise.
 2. The responsibility of each staff person; written guidelines re same.
 3. The flow of documents from intake to the courtroom and a detailed analysis of the administrative requirements at each stage.
 4. Ongoing supervision and training of front-line staff.
 5. Preparation and regular revision of an orientation and procedural manual.
 - (b) Adoptions Committee
 1. Practice direction for adoptions, including appropriate track or timetable and an adaption of the rules and forms.
 2. If a case conference or settlement conference is not required, guidelines for determining when one would be appropriate and how it would be set up.
 3. Any scheduling issues.
 4. Computerization implications.
 5. Security and confidentiality: who has access to what information.
 - (c) Alternative Dispute Resolution Committee
 1. How to integrate mediation into case management timetable.
 2. Public information sessions.
 3. First appearance intake and summary assistance.
 - (d) Caseload and Inventory Committee
 1. Identify open files v. closed files.
 2. Regarding the open files, identify how many there are and

How to Set Up a * Case Management Operations Committee *

the type of case:

- CFSA (CAS, CCAS, JF&CS)
 - family relations, other than enforcement
 - enforcement
 - RESO
 - adoption
3. How to deal with cases which have been adjourned sine die.
 4. Of the opened cases, how many have a set date for a pre-trial or a trial, and how many are awaiting a pre-trial or trial date.
 5. A list of the pending pre-trials and the dates for these pre-trials.
 6. A list of the pending trials and the dates of the trials, how many days are reserved, how many more dates will be required and what kind of cases they are.
 7. Methods for arranging further pre-trials where appropriate on cases already set for trial.
 8. Bringing forward and expediting trials already set.
 9. How many motions and applications are now scheduled for an appearance before a judge, when they are scheduled and the first appearance.
 10. The trial co-ordinator's present workload and pending workload in terms of the numbers of cases and how far these cases are now scheduled.
 11. Suggestions as to how to deal with consent orders and consent adjournments.
 12. A transition strategy from non-case management to case management.

(e) Computerization Committee

1. What do the Ministry/computer personnel require from this project (judiciary, bar and administration) in order to develop and install a new computer system.
2. When is this information required.
3. Feedback from Ministry/computer personnel as to what is feasible from the project's list of requirements.
4. A detailed plan with set target dates for each stage regarding the installation of a new computer system.

How to Set Up a
*** *Case Management Operations Committee* ***

5. Computer training on the new system for judges, bar and staff.
6. Possibility of access by the bar to the system from their offices.
7. Adoptions - special issues.

(f) Education and Communication Committee

1. Develop a plan for educating everyone regarding case management ie, workshops, manuals, etc.
2. A newsletter--quarterly bulletin, etc.
3. Communications strategy for the implementation of the expanded project.
4. Communications strategy regarding ongoing issues in case management.
5. Method for obtaining comments/complaints/suggestions areas from judiciary, staff, bar and litigants.
6. Liaison with Communication Committee of Joint Committee on Court Reform.
7. Case law decisions: how to publicize.
8. Dissemination of practice directions.

(g) Judges Committee

1. Conversion to individual calendar system.
2. Design a rotation schedule which maximizes judges' availability for case management.
3. Case management and computer training.
4. Development of practice directions.

(h) Rules and Forms Committee

1. Practice directions arising out of the rules.
2. Format of the timetables.
3. Draft of motion procedure
4. Proposed guidelines for implementation of rules to ensure uniformity of practice.

(i) Scheduling and Transition Committee

1. Designate, if advisable, a chair to deal with case management issues.
2. Chair's mandate and length of term.
3. Schedule to accommodate judgment days, backup,

How to Set Up a

** Case Management Operations Committee **

vacation, sick leave, conferences, etc.

4. Establish teams.
5. Rotation of the teams.
6. Transition strategy ie, all cases arbitrarily assigned as of start-up date or phase in the lists, such as a half day under the old system and a half day on case management until the backlog is cleared.
7. Ex parte matters - special features of ex partes that need to be examined.
8. Pending pre-trials, trials and motions ie, blitz, letters to solicitors, direction hearings, one or two judges assigned to deal with it and be somewhat freed from the regular schedule for a period of time, etc.
9. Communication and liaison amongst the judiciary, bar, institutional litigants and administration to minimize negative impact of scheduling changes.
10. Trial co-ordinator's function and how that should be incorporated, if at all, into a schedule.

(j) Support Enforcement Communication

1. Practice directions for enforcement matters, including a proposed fast-track timetable, and adaptation of the present rules by practice direction until a three-track system is established.
2. If the case conference or settlement conference is not required in all cases, guidelines for determining when they are appropriate and how they would be convened.
3. The forms: which are appropriate, which are unnecessary, and practice direction regarding same.
4. RESO - any special issues regarding these matters.

• REMEMBER

- regular and frequent meetings
- agenda
- minutes

***How to Set Up a
* Case Management Operations Committee ****

- tasks assigned with realistic target dates for completion
- accountability--written progress reports from sub-committees to OpsCom
- committed regular membership
- open meetings/guests
- review of mandate of sub-committees on regular basis

***How to Set Up a
* Case Management Operations Committee ****

N O T E S

IV Outreach to Target Groups

(a) Judiciary

- case management system makes judiciary publicly accountable for progress of case
- guarantees full-sitting days
- requires individual calendar system
- need for collaboration with bar and administration
- re-organization of administrative staff and functions
- development of settlement techniques
- re-assessment of the traditional judicial role and responsibility in the justice system

(b) Private Bar

- commitment to rethink historical role of counsel
- conversion from high inventory/low turnover to low inventory/high turnover
- resolution of file within set periods of time: compression of length of case
- re-organization of traditional professional day
- anticipated resistance re judicial "interference", rigidity of timetable, impact on practice
- retraining re settlement techniques

(c) Institutional Litigants

- child protection agencies

** Outreach to Target Groups **

- support enforcement agencies
- public assistance agencies

Their Issues

- resistance to internal re-organization
- need for individual timetables
- inability to commit to continuity of personnel on file
- traditional reprieve from ordinary litigant's responsibilities re drafting documents, service, accountability for positions

(d) Administration

- need to re-organize
- need for re-engineering of historical court procedures
- need to become individually accountable
- need for training for new roles
- need to have accurate caseload inventory
- need to assimilate new technology
- impact of A.D.O.'s and social contract

(e) Support Services

- Legal Aid
- Office of the Official Guardian
- mediation and conciliation services

*** Outreach to Target Groups ***

- assessors and assessment services

Their Issues

- need to revise timeframes

(f) Public

*** *Outreach to Target Groups* ***

N O T E S

V Computerization

(a) General

- Benefits and Pitfalls of Computerization
- Technology - past, Present, FUTURE
- Review and Comparison of:
 - Case Management Support Program (311 Jarvis)
 - Family Law (Provincial Division)
 - Sustain Program - Family Law (General Division)
- Cost Analysis
- Data Analysis Tools
- Considerations for your Future

(b) Case Management Support Program

- Access the Case Management Support Program
- Locate Files
- Add and Edit Cases
- Add and Edit Party Information

*** Computerization ***

- Enter Proof of Service and Filing of Answer
- Schedule Appearances
- View Scheduled Cases by Day/Judge/Both
- Produce Dockets and Appearance Memoranda
- Produce Notice of Hearing/Motion and Affidavit of Service
- Run Monitoring Reports
- Query the Database for Statistical Purposes

(c) Other Technologies

- E-mail
- Windows
- Fax
- Calendaring System
- Teleconferencing

(d) Use of Consultants

*** *Computerization* ***

N O T E S

VI Statistical Reports

- types of reports necessary
- who uses the reports
- operational statistics and revision
- management statistics

NOTES

VII Preparing a Business Case Plan²

The Ministry's information technology operation planning process has been reviewed and modified for 94/95. Changes regarding business cases include

- a business case is **not** required for the support of on-going technology/applications and for projects identified as a ministry corporate I.T. priority.
- a business case is required for all projects that are categorized as "Other Potential Projects".
- the business case format has been simplified.

The purpose of this section is to:

- outlines the procedure for developing and receiving approval of a project that requires a business case.
- document the revised business case format.
- provide some reference material or guidelines in the preparation of a business case.

Roles and Responsibilities

Each business case requires an author who is responsible for:

- the preparation of the business case.
- leading it through the approval process.
- ensuring the procedure for development and approval of the business case is followed.
- ensuring that the divisions and program areas which may be affected by the proposed information technology project are invited to participate in the preparation of the business case.

²Gillian Carson, Ministry of the Attorney General of Ontario, June, 1994

**** Preparing a Business Case Plan ****



The author does not have to be the divisional I.T. rep. He/she may be assigned by the division/program area or be an individual which suggested the information technology project.

CTSB has two important roles in the preparation of the business case. The first is as the ministry technology consultant who is responsible for ensuring:

- all technical concerns are addressed.
- that an application review takes place
ie, ensure that the proposed project is not already under construction or promote a joint venture with another program are who is developing a similar project.
- that planned human resources are available.
- the accuracy of costs and resources required.
- that benefits regarding the use of technology are reasonable.



The second is as the co-ordinator of the ministry's I.T. operational plan who is responsible for:

- addressing any questions regarding the business case format or procedure.
- tracing and assisting with the progress of business cases under development.
- documenting the impact of the project on the ministry I.T. operational plan.
- working with the CITC co-ordinator to schedule presentations to CITC and SMC.
- update operational plan with approved information technology projects.



**** Preparing a Business Case Plan ****

When is a Business Case Required?

A business case is required for all information technology projects which meet the following criteria:

1. Project has not been previously identified as part of ongoing application/technology support or a ministry corporate I.T. priority project.
2. The estimated total cost of the project exceeds \$25,000.
Note: This support Management Board Directives regarding I.T. acquisitions, that is, total cost is based on the project life cycle (initial purchase price plus all supporting costs for 5 years).

How the Business Case will be Evaluated

CITC will use the following criteria to evaluate each business case:

1. Project is consistent with the technology vision and infrastructure of the ministry, otherwise, project should not proceed.
2. At least one of the following benefits must apply:
 - revenue generating
 - cost savings
 - government initiative
 - productivity improvement
 - ministry strategic directions

The Procedure

Getting Started

The author of the business case makes contact with:

- those program areas that he/she believes should be involved in preparing the business case. Depending on the number of people and/or areas involved, a committee may be established to develop the business case.

*** *Preparing a Business Case Plan* ***

- their CTSB client service rep to establish the technology participation in the preparation of the business case.
- the co-ordinator of the ministry I.T. operational plan for assistance in the process and establishing target dates, such as, tentative CITC date will be set.

Preparing the Business Case

The author prepares the business case following the format supplied in subsection entitled "Business Case Format" of this section. The format is simply a list of questions which must be answered.

In addition, a Business Case Approval Sheet (Addendum B) has been developed for the front of each business case. This sheet ensures that the proper approvals have been received throughout the business case process.

The co-ordinator of the ministry I.T. operational plan will be notified on the status of the business case on the 1st and 15th of each month.

Completing the Business Case

Once the author/program manager is satisfied that the questions have been answered and the information technology solution is viable, the author will obtain the following signatures on the Business case Approval Sheet:

- the author
- senior management of participating program areas (director or Assistant Deputy Minister)
- the direction of CTSB.

Getting the Project Approval

The first step is to receive divisional approval. This may be done a number of ways depending on the divisional management. The end result is that the ADM's or director's signature is required on the Business Case Approval Sheet.

*** *Preparing a Business Case Plan* ***

The approval sheet and the business case are forwarded to the co-ordinator of the ministry's I.T. operational plan who will prepare a CITC summary sheet regarding the changes to the operational plan. The date for presentation of the business case at CITC will be confirmed at this time.

The business case and accompanying documents will be attached to the agenda distributed by the CITC co-ordinator prior to the scheduled meeting.

The CITC rep for the division preparing the business case is responsible for presenting the business case to CITC.

If approved the ministry's I.T. operational plan will be updated. The revised operational plan will be presented to SMC by the Director of CTSB or C.I.E. at the next available meeting.

If not approved, and the division wishes to revise the business case and resubmit, the process will start over again with a new Business Case Approval Sheet and all contact must be re-established.

Once CITC approved, the final business case will be filed with the co-ordinator of the ministry's I.T. operational plan.

In situations where the ADM has decided that approval cannot wait until the next CITC meeting, a briefing with the co-chairs of CITC will be arranged. At their discretion, the co-chairs may approve the business case or defer it to the next CITC meeting.

Business Case Format

The final business case must list the following questions with the accompanying answers. Addendum A contains a brief narrative on each question and the type of information being sought.

1. General information.

Include: Proposed project name, a brief description of approximately one line, submitting division/program are and author.

*** *Preparing a Business Case Plan* ***

2. What led up to this?
ie, background
3. Why are we doing it?
ie, opportunity, problem
4. What else have we looked at?
ie, options considered
5. What do we plan to achieve?
ie, deliverable/objectives
6. What benefit is it to the organization?
ie, justification/benefits
7. What is the plan and when is it needed?
ie, overview of proposed system, project plan, project resources required, milestone, timeframes
8. How much will it cost and who pays?
ie, financial impact/costs, funding strategy
9. Who else needs to be involved?
ie, linkages
10. What is the impact on staff?
ie, work force impact plan
11. What else should we know about this?
ie, key assumptions, risk management

**** Preparing a Business Case Plan ****

ADDENDUM A

Business Case Guidelines

1. General Information

Project Name:

Project Description: brief one-liner that would fit onto a spreadsheet

Submitting Division/Program Area:

Author (Contact) Name:

2. What led up to this?

Give a brief background of this project identifying where all, or part of the following is applicable:

- summary of information from other sources such as feasibility
- brief history of the function or the area to be automated
- summary of pending legislation that will affect this area
- include relevant information regarding volumes, ie number of cases
- summarize current system (if applicable) including volumes, costs, etc.

3. Why are we doing it?

A clear and concise description of the opportunity/problem using business terminology (not technical jargon).

*** *Preparing a Business Case Plan* ***

4. *What else have we looked at?*

Review several options including remaining at status quo. Compare costs, impacts and list pro's and con's.

Recommend option.

5. *What do we plan to achieve?*

Identify the actual deliverables of this project in business terms.

How will we know this project has been completed?

List the measurable, quantifiable objectives this project is expected to achieve.

6. *What benefit is it to the organization?*

Fill in the following chart, identifying benefits using one or more of the following categories and completing the necessary information:

() Revenue Generating	Per Annum Dollar Value One-time Dollar Value Target date for start of revenue
() Cost Savings	Per Annum Dollar Value One-time Dollar Value Target date for start of cost saving
() Government Directive	Which one?
() Productivity Improvement	Percentage improvement expected Per Annum Dollar Value One-time Dollar Value Target date for start of productivity saving
() Pre-requisite	For what?

*** Preparing a Business Case Plan ***

7. What is the plan and when is it needed?

a) Overview of proposed automated system (or proposed solution)

Summarize how the solution will operate and how it will address the problem. Include how it will effect changes in service delivery, work process, organization, staffing and required skills, policies, regulations or any other times.

b) Action Plan

High-level development and implementation plans, including on-going training and support. Include go/no go decision points.

c) Project Resources

outline the requirements for project resources, such as, hardware, software, staff and how they will be met.

8. How much will it cost and who pays?

Complete the following chart:

	94/95	95/96
--	-------	-------

- | | | |
|--|--|--|
| <input type="radio"/> salary/benefits | | |
| <input type="radio"/> fee for service | | |
| <input type="radio"/> hardware | | |
| <input type="radio"/> hardware maintenance | | |
| <input type="radio"/> software | | |
| <input type="radio"/> processing costs eg service bureau | | |
| <input type="radio"/> training | | |
| <input type="radio"/> other, specify | | |

Develop an annualized cost/benefit chart for 5 years including all the cost categories identified above plus annual maintenance costs and compare to the expected financial benefits for each year.

Outline project finding requirements and how they will be met. That is, who is paying for what?

*** *Preparing a Business Case Plan* ***

9. *Who else needs to be involved?*

Identify linkages to other divisions, other ministries and government initiatives.

10. *What is the impact on staff?*

Describe the impact of implementing this project on the work force. For significant impacts, the standard Human Resource Work Force Impact Plan must be completed.

11. *What else should be know about this?*

Identify all assumptions made in regard to this project.
(ie, dependency on the completion of other projects or the availability specific resources)

Identify the risks involved in doing the project as well as those in not doing it.

Identify if this project should become a ministry corporate priority and why?

*** Preparing a Business Case Plan ***

ADDENDUM B

Business Case Approval Sheet

Business Case Approval Sheet			
<div style="border-bottom: 1px solid black; height: 1.2em; margin-bottom: 2px;"> as of </div>			
Project Name		Author (Contact) name	
Project Description			
Approvals:			
Title	Name	Signature	Date
Author			
Manager of Program Area			
Director, CTSB			
Other Participants:			
ADM of Program Area			
CITC approval (co-chair signature)			
SMC approval (CITC co-chair signature)			

NOTES

VIII Transition Strategy

- feasibility of transition team
- assess your inventory
- trial blitz
- scheduling pre-trials on existing cases
- graduated integration
- dedication of judicial resources to existing inventory
- determining case management stage of pre-case-managed files
- developing a critical path
- design schedule
- liaison with bar, institutional litigants and support services re transition schedule
- backup manual system during initial stages
- extra personnel during transition
- spot auditing of files
- daily monitoring of functions, assignments, etc. for overload, imbalances

NOTES

APPENDICES

- A Questions and Answers
- B The Australian Experience:
 - (1) *Caseflow Management in the Family Court of Australia* by The Honourable Judge N.J. Buckley
 - (2) Case Management Guidelines (Australia)
- C Case Management Information Brochure
- D Toronto Family Law Case Management Rules
- E Essex Civil Case Management Rules
- F District of Algoma Civil Case Management Rules
- G The Request Form (Form 5 of the Toronto Family Law Case Management Rules)
- H Sample Timetables from Toronto (Provincial Division):
 - (1) Family Relations Cases
 - (2) Child Protection Cases



APPENDIX A

Questions and Answers

CASE MANAGEMENT QUICK FACTS

SOME QUESTIONS AND ANSWERS

Q: What is Case Management?

A: Case management is method of managing the time and events of a lawsuit as it passes through the justice system from the time it is started until its resolution.

Q: Is It a New System?

A: Case management is a new system in Ontario but it has been used in courts in the United States, Australia and England, for example, for more than 20 years.

Q: Why is Case Management Necessary in Ontario?

A: The most common reason people give for being dissatisfied with the courts is unwarranted or unreasonable delay. And yet, justice delayed is justice denied.

Unwarranted delay in the administration of justice is a problem that affects us all. It postpones the rectification of wrongs and the vindication of people who are unjustly accused. It increases the possibility of error and, consequently, the possibility of injustice. It causes crowded court dockets. And it results in significant costs to individual litigants and to taxpayers.

Delay reduction is therefore an important goal of the justice system.

Q: What is Case Management Intended to Do?

A: Case management is intended to improve the business practices of the courts so that the administration of justice is fair, timely, effective and efficient. Since it reduces the amount of time that elapses between the beginning of a case and its disposition, it significantly enhances the court's ability to provide expeditious justice. Delay reduction will reduce costs to individual litigants and to taxpayers.

Q: Is Case Management Currently In Place In Ontario?

A: Case management is currently in the pilot-project stage in Ontario. Three pilot projects are currently being conducted in the Ontario Court (General Division) in Windsor, Sault Ste. Marie and Toronto; and in the Ontario Court (Provincial Division) in Toronto. These three sites were chosen to represent small, medium and large urban centres. The pilot projects are scheduled to conclude in December 1994.

Q: How Is Case Management Working In The Pilot Projects?

A: When the pilot projects are completed at the end of 1994, further evaluation of the effectiveness of case management at those sites will be undertaken. Preliminary results, indicate, however, that case management is having significant positive results.

A survey of the pilot projects taken in November 1993 shows, for example, that case management has reduced the delay between most stages in proceedings and has substantially reduced the overall passage of time from commencement to resolution. It also shows that, at all sites, even in the early pilot project stages, the costs per file of case-managed files are equivalent to, or lower than, those for non-case-managed files. And it also shows how early settlement rates can greatly reduce demands on judicial and administrative resources and on court facilities.

The cost benefits of case management can be expected to increase further, over time, as the costs associated with the pilot project (e.g. staff training, introduction of automated systems, etc.) disappear when case management becomes a fully integrated system.

Q: Will Case Management Be Implemented Across Ontario?

A: Province-wide implementation will depend on the results of a full evaluation of the pilot projects which will take place when they are all completed in December 1994. The Joint Committee on Court Reform has recommended province-wide implementation.

Q: Will Case Management Change the Way Courts are Operated?

A: Case management will require judges, lawyers and court staff to work quite differently than they have in the past. It will require, for example, that they work in much greater co-operation with each other. This "partnership" or "team" approach to the administration of justice can bring significant benefits to those who use the courts.

Q: Who is Responsible for Bringing Case Management to Ontario

A: The Ontario Joint Committee on Court Reform, an umbrella organization representing the legal profession, recommended the case management pilot projects to the Ontario government in 1988. The provincial government agreed to establish and to fund the pilot projects.

Bar, bench and the court staff of the Ministry of the Attorney General have all played an important role in introducing case management to Ontario -- and have committed many hours of *volunteer* time to the pilot projects. They have recognized that there are significant benefits to the system -- both for themselves, as people who work in the courts, and for the public they serve.

Q: Where Can I Get More Information on Case Management?

A: The Joint Committee on Court Reform, c/o Canadian Bar Association (Ontario), Suite 200, 20 Toronto St., Toronto, Ont. M5C 2B8

CASE MANAGEMENT QUICK FACTS

HOW CASE MANAGEMENT WORKS

A Definition of Case Management

Case management is an administrative system that manages the time and events of a lawsuit as it passes through the justice system from its initiation until its resolution.

The Goals of Case Management

Case management has three main goals. They are:

1. To reduce the delays between the various stages of a proceeding.
2. To facilitate earlier resolutions in more lawsuits.
3. To reduce the cost of litigation.

The Primary Components

Case management has two primary components:

- o The setting of a **timetable** for pre-determined events in the evolution of a lawsuit; and
- o **Early judicial intervention** in a lawsuit (and, in some courts, judicial supervision of a lawsuit).

The Critical Elements

Case management has five critical elements:

1. Access to early judicial intervention -- in cases where such intervention is warranted; and, in some courts, continuous court supervision of each case from commencement through to disposition.
2. Adoption of time goals. Time goals differ according to the complexity of the case being heard.
3. The monitoring of some cases to ensure that scheduled events are concluded on time.
4. Court response to a failure to comply with deadlines.
5. Trial dates that can generally be relied upon.

How Case Management Works/2

New Working Relationships

Case management requires the three key participants in the court system -- bench, bar (on behalf of their clients) and courts administration staff -- to work quite differently than they have in the past. It requires them not only to perform their own work differently, but also to work in closer co-operation with each other.

Traditionally, litigation has been lawyer-driven. There was no court "management" of the caseload. Cases simply proceeded according to lawyers' own priorities and agendas. This has meant that court staff have had either to overbook or underbook court time since they have not known whether cases would go forward or not. This lack of reliable information about individual cases and the court's caseload has hindered the efficient management of the business and resources of the court.

In case management, the court takes active responsibility for the supervision of cases, and bench, bar and court personnel work together to monitor cases and to ensure that deadlines are met.

For More Information on Case Management Write to:

Joint Committee on Court Reform, c/o The Canadian Bar Association
(Ontario), Suite 200, 20 Toronto St., Toronto, Ont. M5C 2B8

CASE MANAGEMENT QUICK FACTS

THE BENEFITS OF CASE MANAGEMENT

Case management brings a number of benefits to the administration of justice. They include:

Reducing Delay

- o Case management promotes early and prompt resolution of a case.
- o It can significantly shorten the length of time it takes to complete a case.
- o It reduces unwarranted delays between each stage of a proceeding from its initiation through to its resolution.
- o Urgent matters can receive quick judicial attention.
- o The involvement of a judge early in the proceeding facilitates earlier settlements. It enables the judge to attempt to limit the issues; to explore the possibility of full or partial compromise; and to refer the case to mediation or to another alternative dispute resolution service.
- o When cases do not settle and go to trial, case management can contribute to trials that are shorter and better focused.

Reducing Costs and Improving Efficiency

- o Case management introduces modern management practices and management systems that are generally computer-assisted into the courts.
- o It requires judges and courts administration to work more co-operatively together in a team -- rather than in relative isolation from each other.
- o The continuous involvement of a single judge, or a team of judges, from initiation to immediately prior to trial provides consistency. Counsel no longer need to present their cases before a variety of judges, which saves lawyers and their clients both time and money.
- o It provides reliable dates and times for specific events in a case, including trials, and thus avoids wasting the time and money spent on overbooking or underbooking the court's schedule.
- o It can reduce the costs of litigants, the courts and, ultimately, taxpayers. **It means speedier justice at less cost to everyone.**

CASE MANAGEMENT QUICK FACTS

THE ROLES AND RESPONSIBILITIES OF BENCH, BAR AND COURTS ADMINISTRATION

Case management requires bench, bar and court staff to perform their functions in different ways and requires much closer co-operation between the three partners.

The Bench

- o Case management judges are responsible for allocating their own time among the cases to be managed.
- o They help counsel adhere to a timeframe. In some courts, they more actively direct counsel as to the manner in which a case will be conducted.
- o Judges can, on their own motion, compel compliance with their directions, the Case Management Rules, and the timetable.
- o They help counsel ensure that settlement is discussed and, if possible, reached as soon as possible in the proceedings.
- o Judges and staff share the responsibility for ensuring that the court's caseload is managed in conformity with the time standards established for the progress of all cases before the courts.

The Bar

- o Members of the bar must comply with Case Management Rules and manage their clients' lawsuits so that timetable deadlines are met.
- o They have to be well prepared at each stage of the proceeding because they may appear before the same judge, or a member of a judicial team, who has a cumulative knowledge of the case.
- o They should be ready to address settlement at any stage of the proceeding.
- o They are accountable to the court for failure to comply with the Case Management Rules and timetables.
- o The case management rules encourage lawyers to prepare cases earlier than usual and to consider settlement much earlier in the process than has traditionally been the case.

Roles and Responsibilities/2

Courts Administration

- o Courts administration staff set up manual or computerized systems to monitor individual cases and to provide the judges and administration with the information necessary to manage case flow.
- o They are responsible for providing reports for the judges, on the progress of individual cases, and for administration, for court management and resource allocation purposes.
- o They provide the necessary personnel and technological support to judges and administration.
- o They take the action that is required when Case Management Rules or timetables aren't complied with.
- o And they are responsible for monitoring, assessing and changing administrative procedures in order to ensure the efficient operation of the case management system.

For More Information on Case Management Write to:

Joint Committee on Court Reform, c/o The Canadian Bar Association
(Ontario), Suite 200, 20 Toronto St., Toronto, Ont. M5C 2B8

APPENDIX B

The Australian Experience:

- (1) *Caseflow Management in the Family Court of Australia*
- (2) Case Management Guidelines (Australia)

CASEFLOW MANAGEMENT IN THE
FAMILY COURT OF AUSTRALIA

THE HONOURABLE JUSTICE N.J. BUCKLEY
Judge Administrator, Northern Region
Family Court of Australia

APRIL 1993

CASEFLOW MANAGEMENT IN THE FAMILY COURT OF AUSTRALIA

The Court in 1992/93:

The size of the Court, its geographical distribution, the number of citizens who are directly involved in its services, the heavy emphasis on an integrated dispute resolution service and the professional mix of staff which facilitates that service add some additional complexity to the case management tasks facing the Court.

The Family Court of Australia is a Superior Court of Record and comprises:

53 Judges

7 Judicial Registrars (Masters)

730 Total Staff including:

53 Registrars - made up of:

20 Registrars - exercising judicial power

33 Deputy Registrars - predominantly providing conciliation services

135 Counsellors - Social Workers or Psychologists - predominantly providing conciliation

24 Registries and Offices (including National and Regional Offices and the joint federal courts and tribunal registry in Darwin) located in every State and Territory except Western Australia.

Workload 1991-92 (round figures):

53,000	Files opened
43,000	Applications for Dissolution of Marriage
36,000	Ancillary Applications (custody, guardianship, access, maintenance, property, etc)
15,000	Counselling files opened - pre-litigation - privileged
10,000	Counselling files opened - Court ordered - privileged
1,500	Family Reports

The total effect of these factors upon the management of cases in the Court system demands a uniform management system for the passage of litigation.

It is important to appreciate when considering the structure of the case management system which has been implemented in this Court that some of the judicial powers of the Court have, pursuant to Sections 26B and 37A of the Family Law Act, been delegated to Judicial Registrars and Registrars respectively.

Judicial Registrars have all the delegated powers of Registrars and, in addition, have power to determine property settlement disputes involving property of a value up to \$300,000, interim custody and access disputes, disputes under the Child Support legislation, contested applications for dissolution of marriage and as to the validity of marriage, applications that a person be dealt with for failure to comply with an order of the Court, and various related matters, such as extending the limitation period for bringing property settlement applications, and ordering the issue of warrants to give effect to custody and access orders.

Registrars have power to determine undefended proceedings for dissolution of marriage, undefended proceedings in relation to custody and access of children, and defended maintenance proceedings. They also have power to deal with a wide range of procedural matters, including particulars, discovery and inspection, interrogatories, striking out pleadings, disputes as to venue, filing of affidavit evidence, etc. These last mentioned procedural powers are of particular significance, as they arm the Registrars with the necessary powers to discharge their crucial role in the Court's case management system.

Case Management Chronology:

Case Management is strictly a management process - it should not directly impact on the adjudication of substantive or procedural issues in the litigation. The resolution of each case on its legal merits is never compromised by an effective case management system.

Although it is not necessary to set out here the fundamental elements of a Case Management System in detail, it is worthwhile reiterating that Case Management Guidelines serve a dual purpose:

- . they seek to state clearly the practice and expectation of the Court in relation to the progress of litigation in accordance with case management principles; and
- . they seek to ensure a degree of standardisation of practices across the Court.

Without a case management system the pace of litigation is determined by the parties and/or their legal practitioners. In these circumstances the Court simply responds to the demands of litigants who are ready and willing to proceed. The Court need take no interest in proceedings until both parties are ready for trial. To this day most Superior Courts do not even count cases as forming part of the workload of the Court until the legal representatives for all parties certify that the matter is ready for trial.

The key principles of an effective caseload management system are set out in full in paragraph 14 of the Interim Report on Case Management in the Family Court prepared by five Judges of your Court.

Pre 1985:

There was particular impetus for the development of a case management system because the Court was unable to identify its workload. Unless a Court is able to identify its workload and monitor and control the progress of cases from institution to determination, it will be unable to secure appropriate resources and in turn allocate those resources within the Court in a fair and just manner. Where a Court has a high volume of applications filed, serious problems will occur if they are not managed in an orderly manner. Prior to 1985, the situation in the larger registries reflected lengthy periods of time elapsing from filing to determination, as well as the filing of numerous unscheduled interlocutory applications. Delays of up to five years occurred in some cases between filing and disposition. A

examination of files in one of those registries during the period referred to as the property boom revealed the filing of up to 42 interlocutory applications.

1985:

The Family Court has been a leader in Australia in the development and uniform application of case management principles since 1985.

The matters at issue are of such importance to the parties and their children that progress to timely resolution of disputes cannot be left unsupervised. The Court's jurisdiction is such that delay has an increasingly disadvantageous effect on the parties' entitlements, particularly where status quo considerations are concerned.

Case Management Guidelines were settled after consultation inside and outside the Court and, with the support of the Law Council of Australia, the application of those guidelines was commenced across the Court. One of the important objectives of the establishment of the Court's caseload management system was to enable clients, their practitioners and the Court to predict accurately a case's progress along the case management pathway and where that progress faltered to enable steps to be taken to rectify that default.

The Guidelines introduced the concept of an Active Pending Cases List onto which all active cases were placed and which was the queuing device for cases moving towards disposition. After a program of back-capture of cases the Court was able, for the first time, to identify its potential workload.

The implementation of the guidelines coincided with the delegation to Registrars of sufficient judicial power to manage procedural elements of the pre-trial process. That fact facilitated a standard approach to the management of cases and ensured that the most effective use was made of judicial time.

Despite the success of the case management system, disparate practices continued in some places and the supervision of the progress of cases was not consistent throughout all stages of litigation. In particular that supervision was not consistently provided before the first return date, during conciliation phases and in the process of setting cases down for trial.

1991 - Revision of Guidelines:

Recommendations were made for changes to the case management system in the Report of the Working Party on the Review of the Family Court. Those recommendations were accepted by the Chief Justice and after an extensive process of consultation, a set of guidelines was released in October 1991 and came into force in the form of a Practice Direction on 2 December 1991. A copy of the Guidelines is attached to this paper. (Annexure A)

Despite the consultation process there was considerable opposition from both inside and outside the Court to the changes which were required. Throughout the Court disparate listing practices still existed and were embedded in the "local legal culture". The Guidelines prescribed uniform listing arrangements which required a significant degree of change in every Registry.

The changes effected by the 1991 Guidelines were significant as they:

- . set out the case management principles on which the individual directions were based - this assisted the Court and the profession in the application of the guidelines and assisted in the event of a lacuna in the guidelines;**
- . provided for the supervision of the progress of cases from filing to disposition - not just from the first return date. To this end the Active Pending Cases List became the Pending Cases List as Court supervision of progress was extended from not just the active cases but to the progress of all cases, including those in which there was no activity on the part of any party;**
- . provided for the establishment of critical events along the case management pathway (i.e. Directions Hearings, Conciliation Conferences, and Pre-Hearing Conferences) and for the supervision of cases between those events by the listing of an appointment for the next event upon the completion of the prior critical event. For instance, upon the completion of the Conciliation Conference, an appointment is made for the holding of the Pre-Hearing Conference.**
- . provided a reconciliation of the Court's case management with the clinical management of cases by the Court Counsellors;**
- . provided for the mandatory attendance by parties at all critical events along the case management pathway, i.e.**

Directions Hearing, Conciliation Conference and the Pre-Hearing Conference;

- . prescribed an order in which matters in the Registrars Duty List would normally be called;**
- . established Committees at national, regional and registry levels to coordinate and oversee the case management system. It might be noted that members of the legal profession and Legal Aid authorities are represented on the Registry Case Management Committee and that the National Committee also meets with representatives of those institutions;**
- . required the designation of a List Judge and a List Registrar in each Registry - the List Judge supervising the management of cases once fixed for final hearing and the List Registrar supervising the management of the Pending Cases List and the work of the List Clerk.**
- . gave priority to the enhancement and improvement in the collection and interpretation of statistical information whereby the effectiveness of the system could be monitored;**
- . provided a system for the identification and management of complex cases. These cases are monitored by the Registry Case Management Committee and where practicable are listed before the same judicial officer for interim and interlocutory procedural matters. That system has now been further refined to apply a team approach to the management of such cases. The team will consist of a judicial officer (i.e. either a Judge or a Judicial Registrar), a**

Registrar and a Counsellor. I note that the issue of complex cases is also addressed in your Interim Report (Chapter 2, page 12);

- required that the setting down of cases be effected through individual pre-hearing conferences at which attention would be given to the readiness of the matter, the estimates of hearing time, prospects of settlement etc. and at which directions could be made for the filing of updated material - this replaced a system of allocating hearing dates at call-overs;
- changed all Registries to a listing system based on four week, judge specific lists incorporating an over listing ratio to be fine tuned at the registry level.
- established overall time standards for the progress of cases including intermediate standards for the times which elapsed between each of the critical events along the pathway;
- included the Court's policy on adjournments which is that such applications will only be granted for good cause.
- provided for the regular review of the guidelines and the case management system.

1992 - Revision of Guidelines:

The National Case Management Committee chaired by the Chief Justice appointed a sub-committee to consult and make recommendations for changes to the Guidelines. The Chief Justice intends to review the Guidelines each year. Again, an

extensive consultative process both within and outside the Court was embarked upon. A comprehensive report was prepared and was considered by the National Committee last month. It is proposed that the revised Guidelines commence operation on 1 June 1993.

The recommendations focus on tightening the system and making changes in response to the experiences of the Court and the profession over the last 18 months.

The main recommendations of the sub-committee are set out below:

- . to ensure that the case management principles contained in the guidelines accurately reflect the Court's intentions;
- . to require that all parties to either property or children's proceedings attend an information session before the first return date;
- . to incorporate mediation services into the case management system;
- . to explain more fully in the guidelines the reasons why parties are required to attend at the Directions Hearing usually conducted on the first return date and to ensure that every opportunity is taken to explore resolution or narrowing of issues on that date;
- . to supervise the compliance with directions made at pre-hearing conferences. Contested List Clerks in each Registry will conduct a compliance check on files listed for hearing. The check will be made 14 days prior to the hearing date and will be undertaken by review of the file

and telephone call to the legal representatives. If the List Clerk is not satisfied that the directions made at the pre-hearing conference have or will be complied with or is otherwise concerned that the matter may not be ready, the case will be listed immediately before either the List Judge or the specific Judge before whom the hearing is listed. In this way the pre-hearing directions can be enforced before default causes the hearing to be aborted;

- . to establish a time standard for the delivery of judgments;**
- . to establish guidelines for cross-vested proceedings;**
- . to prescribe standard sitting hours for the different types of lists;**
- . to provide for the use of standardised forms for Directions Hearings, Conciliation Conferences and Pre-Hearing Conferences;**
- . to extend the operation of the Practice Direction with respect to costs. A copy of that direction is attached to this paper. (Annexure B) In future practitioners will be obliged to comply with the procedures set out in the direction at each critical event along the pathway.**
- . to provide for the completion of the counselling memorandum in those cases where counselling has occurred prior to the institution of proceedings;**
- . to provide for the lodgment and the exchange of lists of assets and liabilities not later than 48 hours prior to a conciliation conference;**

- to provide for the filing of the Lists of Pleadings and Affidavits one clear working day prior to the commencement of a defended hearing and for Chronologies to be handed up at the commencement of the hearing;
- to provide uniform procedures for the listing of appeals and transfers from Courts of Summary Jurisdiction as well as for Applications for the Review of Decisions of Judicial Registrars and Registrars;
- to provide procedures which will expedite the transfer of matters from the Registrar's Duty List to the Judicial Duty List.

Experience to Date:

Where some of the recommended initiatives are already in place in Registries, they have been very successful. Again they depend on an integration of case management into the procedural phases of litigation and on the greater involvement of informed parties to that litigation.

At Parramatta Registry for instance, parties are asked to attend information sessions between filing and the Directions Hearing and they are required to attend at the Directions Hearing with their legal representatives. Part of the information session is devoted to an explanation of the case management system so that parties are aware of the steps which their proceedings will take, of the roles played by the Court, the parties and their lawyers, the time which will elapse between each stage of the

proceedings and of the Court's expectations of them in achieving a timely resolution of their dispute.

At the Directions Hearing the Registrar takes time to explore the issues between the parties, tests the range of their dispute and actively encourages discussions in the precincts of the Court that day.

In the year prior to the implementation of these measures the resolution rate of ancillary proceedings at the first Directions Hearing at Parramatta was of the order of 15%. In the first six months of the current financial year since the above initiatives have been applied that rate has risen to 50%. In Brisbane, where the information sessions have not commenced as yet, the compulsory attendance of parties at the Directions Hearing stage seems to have resulted in an increase in the resolution rate from 27% to 48%. If over time that trend translates throughout the Court any increase in cost and inconvenience caused to litigants by these requirements will be more than offset by the financial and emotional savings of the early resolution of proceedings.

With respect to information sessions, a committee was set up by the Chief Justice to consider both the format and content of the sessions. The Report was furnished to him in November 1992. The Chief Justice has decided:

1. Information Sessions are to be introduced in each Registry of the Court;
2. The Information Sessions are to be conducted jointly by a Counsellor and Registrar; and

3. The Information Sessions are to deal with both children's and financial issues during the same session.

The format recommended to him was as follows:

- (i) Brief introduction, by either Counsellor or Registrar, 5 minutes;
- (ii) Impact of the separation process, as it affects parents and children, and the negotiation process by a Counsellor, 10 minutes;
- (iii) Overview of Case Management, including opportunities for negotiation and resolution, by a Registrar, 10 minutes;
- (iv) Overview of Counselling service, what clients can expect, effect of separation on children, helping children cope, making the best of the Counselling service, by a Counsellor, 15 minutes;
- (v) Legal principles governing property settlement and spouse and child maintenance. What to expect from your solicitor, costs, by a Registrar, 15 minutes;
- (vi) Brief question time, 5 minutes.

The Report also contained detailed recommendations as to the content of the sessions.

I was very interested to observe in your Interim Report that you are addressing very similar concerns as to the lack of information concerning the progress of cases being relayed to clients by practitioners (Chapter 2, pages 7/8, paragraphs 5, 6) and the

non-attendance of parties at the various hearings (Page 9, paragraph 9).

Finally, it must be acknowledged that in the initial stages a Court must incur additional costs when establishing a caseflow management system.

The actual development of such a system involves extensive involvement on the part of all Court personnel. Capital costs are occasioned by the purchase of computers and the development of appropriate software. Naturally considerable staff and court time is expended in the management of individual cases and the overall supervision of the system.

The Family Court experience provides compelling evidence of the advantages to be gained by maintaining a case management system. The Court conducted its operations for a period of nine years without such a system. The attempts to manage the Court's workload in those days can only be described as chaotic. The current system, including the refinements outlined above, have now been in operation for eight years.

It is of the utmost importance to appreciate when analysing the benefits of such a system that courts are established to provide a service to members of the public. Accordingly, in my view, our principal concern when undertaking a costs benefit analysis of implementing such a system should be for those people who are required to utilise our services.

There is now no doubt that the benefits which have flowed to clients include lower costs, reduced delays, improved communication as to the progress of their cases and of the system in general, and the certainty of scheduled hearing dates.

It is also clear that the efficient management of cases facilitates timely and effective case preparation which ultimately improves the quality of the outcome of proceedings. From the Court's point of view, the uniform systems and the standardisation of practices and procedures which accompany the implementation of a caseflow management system have produced better management information. This information has improved our capacity to secure resources, to allocate those resources internally and to provide greater equity of access as between citizens in different parts of Australia.

Other Integrated Key Initiatives:

1. Registrars Conciliation Conference Format

In 1991 Registrars settled a uniform format for conciliation conferences. The background to that change is as follows:

- . In 1976 lawyers appointed to the new Family Court were suddenly required to conduct conciliation conferences in financial proceedings. No part of their professional training prepared them for that role and no formal training was then available in what is now described under the umbrella term of ADR. Given that the conduct of these formal conferences was unique in those days it is not surprising that disparate practices developed over the following 16 years.
- . Registrars established formats which suited individual skills and styles and over time those formats became part of the local legal culture.

- . Although Registrars conciliations conferences were very effective, it was felt that the format should be examined both from the perspective of the needs of the litigants and of the procedural requirements of a national court.
- . In settling a uniform format the Registrars had the benefit of work done by Dr Richard Ingleby of Melbourne University under the auspices of the AIJA. Dr Ingleby studied ADR conferences in the Family and Federal Courts and in the Victorian Civil Claims Jurisdiction. In particular Dr Ingleby was able to point to practices in the three Courts he studied which he believed enhanced the effectiveness of conferences and which reflected a type of best practice in the area.
- . For Registrars of the Family Court the theme from that work which most struck home was the need for the parties to be involved at every stage of the conference. In the past, in some instances, parties had been excluded from some or all parts of their conference while negotiations were conducted between the legal representatives.
- . Initial work on a proposed format was undertaken by a committee of Registrars assisted by a Court Counsellor and Dr Ingleby. After consultation with the Registrars arm of the Court, in the Court generally and with the Law Council, Law Societies and Legal Aid Services a new format was settled. That format is in three phases - an introductory phase at which the task is identified, ground rules are established and the issues and range of dispute are identified; a second phase devoted to the settlement

discussions, exploration of options etc., and a third phase or conclusion at which the outcome of negotiations is discussed together with arrangements for formalising any agreement or preparing the case for trial.

- . Subject to specific requirements for the format of an individual conference the parties would be directly involved in all three stages of the conference. If either party is afraid of the other and does not wish to be in the same room with that person then the conference format will accommodate that requirement. This situation can occur where there is a serious power imbalance between the parties such as can arise in relationships involving domestic violence.
- . Early experience with the uniform format suggests that it is effective, that is more time consuming and more demanding on the Registrar conducting the conference. The new format requires Registrars to manage the human and the technical aspects of a complicated financial dispute to a favourable conclusion in a relatively short time - 1.5 to 2 hours.

2. "Aged Lists"

To assist with the monitoring and supervision of the Short, General and Long Lists, all registries were instructed in June 1992 to maintain what are referred to in the court administration field as "aged lists" for each of the categories. The cases are catalogued from the time of filing until their final determination in increments of three months. They are also identified in terms

of the matters in issue between the parties. The "aged list" system is an extremely valuable management tool as those cases which exceed the time standards are instantly identified. In turn, those cases are then managed on an individual basis by a Registrar to ensure that they proceed to a final determination in a timely manner. The Caseflow Management Report for the Brisbane Registry for the quarter 1 October 1992 to 31 December 1992, which includes aged lists, is attached to this paper. (Annexure C)

3. Trial Management:

The Court considers that there is a further area where appropriate initiatives could save litigants significant costs and achieve more fruitful application of judicial resources. This area is what has come to be understood in judicial administration as "trial management".

Trial management is the expression used to describe the activity of controlling the time and scope of actual hearings. The objectives are to ensure that a fair hearing of the relevant issues is provided by the Court but, at the same time, to achieve effective use of court time with the overall aim of containing the cost of litigation both to the litigant and to the public purse.

Common law judges have been practising some degree of trial management for centuries. Australian judges practise trial management in various forms at the present time. The Court's view is that there is scope, particularly following several recent decisions of various superior courts, for an expansion of the extent to which trial management can be undertaken properly.

There is a recent body of authority to suggest that courts have a responsibility to manage cases in a manner which will ensure that the hearing is not protracted by pursuit of every possible piece of evidence no matter how trivial, thereby causing an injustice to one of the parties by way of financially ruining them and causing practical difficulty to judges by having to sort through a huge amount of evidence, much of it extraneous to the main issues. The Court notes that a substantial number of submissions to the Joint Select Committee indicated that the costs of justice are too high and are beyond the affordability of Australians of average means. The Court takes the view, therefore, that it should move to the fullest extent possible, to develop appropriate modes of trial management to assist containment of the costs of litigation and to make the fullest use of available judicial resources.

The Court considers that development of appropriate trial management mechanisms would be facilitated by legislative amendment to empower the judges to make rules of Court to enable the Court to make directions for a more structured and more interventionist approach to the management of trials. The Court's submission in this regard was adopted by the Joint Select Committee (Recommendation 110 of their Report). A Committee within the Court has been assigned the task of preparing a detailed Discussion Paper in anticipation of the appropriate legislative amendment being enacted.

4. Simplification of Procedures:

In September 1992 the Chief Justice appointed a committee to report to him on the simplification of procedures in the Family Court. The committee was chaired by the Deputy Chief Justice and included representatives from the legal profession and the Legal Aid authorities. The report which contains 97 recommendations, was presented to the Chief Justice in January 1993. For your information, the "problem" and the "solution" identified by the Report are set out below:

"The Problem?"

5.1 It has frequently been said that only about 5% of applications filed in the Family Court proceed to trial. It is hard to obtain reliable statistics to verify this.

Nevertheless, it is notorious that in all courts few applications proceed to trial and especially so in family law matters. In the attached Schedule only 4% of applications proceeded to trial and only 2% to judgment.

5.2 The Family Court has the most advanced alternative dispute resolution system of any court in Australia. The hope is not to settle more cases but to settle them earlier in the litigious pathway and hence at less expense.

5.3 The real problem is that the procedure in the Court is designed from application onwards, for cases that are going to trial. Thus, the procedure is appropriate to a very small percentage of cases yet is obligatory for all. The procedures are in practice technical, repetitious, time consuming and prolix.

5.4 The reasons for settlement along the litigious pathway are varied. They appear to differ in 'child related'

matters from 'property related' matters. In the former category early and competent counselling may be by far the most significant factor in reaching and facilitating settlements between parties. In the latter category the factors leading to settlement seem to be more complex and given the wide range of cases involving property and spousal maintenance it is more difficult to identify and characterise the most significant factors. This committee has concentrated upon facilitating procedures which encourage and then formalise settlements.

5.5 The problem is well stated in the November 1992 Report of the Parliamentary Joint Select Committee Inquiring into Certain Aspects of the Operations of the Family Law Act 1975. At paragraph 13.38 the Committee reported:

'A matter of concern to the Committee is the increased complication of proceedings in the Family Court brought about by the introduction of pleadings. The pleadings system requires a party to file more detailed and complex documents to reach the negotiating stages than was required before their introduction. The introduction of the pleadings system by the Family Court was an attempt to streamline and simplify proceedings through the Court, by discouraging lengthy affidavits which often did not bear sufficient relation to the issues of fact before the Court.'

The Solution?

6.1 At paragraphs 13.46 and 13.47 the Joint Select Committee said:

'The Committee concludes that the development of a more simplified system within the Family Court is a matter of high priority. The Committee therefore supports the development of simpler procedures under the Family Law Act and reiterates the view that the Court process should be oriented towards the settling process as opposed to preparing parties for a trial. The Committee considers that it is necessary to continue and reinforce the current policy of directing or encouraging settlement of cases at the earliest possible time, either before or during the litigation pathway. In determining whether a matter should remain in the summary list or be transferred to the list of more complex cases, the Committee is of the view that the option should remain open not only at the first return date but at any time during the proceedings.

The Committee is of the view that with simplified procedures and maximum use of conciliatory facilities, the original intention of the Family Law Act may be more likely to be achieved.' "

The scope and extent of the recommended changes are so significant that you will be interested in the particular recommendations with respect to the future timetable as follows:

"23.3 That the Chief Justice circulate this Report widely by early February 1993 with a request for comment by 30th April, 1993.

23.4 That the Chief Justice give the Rules Committee instructions to prepare such drafting instructions as he considers appropriate by 31st May, 1993.

23.5 That the Rules Committee be asked to circulate draft Rules for approval and signature by the Judges by 31st August, 1993.

23.6 That the new Rules come into force on 1st November, 1993.

23.7 That the Chief Justice ask the National Case Management Committee to make consequential amendments to the Case Management Guidelines by 30th September, 1993 to come into force on 1st November, 1993."

Summary:

1991/92 has seen greater integration of case management principles and practices in the management of proceedings in the Family Court. I am confident that the further initiatives planned for this year will improve the efficiency and effectiveness of the Court's procedures to enhance access to the Court and to encourage the timely and affordable resolution of disputes.

FAMILY COURT OF AUSTRALIA

CASE MANAGEMENT GUIDELINES

10 May 1993

I. STATEMENT OF CASE MANAGEMENT PRINCIPLES

- a. The Court has a responsibility and a duty to those who approach it to facilitate the just resolution of disputes in a manner which is prompt and economical.
- b. To do justice and to ensure promptness and economy, the Court must concern itself with the pace of litigation, from commencement to disposition. Thus the Court has made a firm decision to accept responsibility for the pace of litigation rather than allowing the parties or their legal representatives to undertake that responsibility.
- c. Whilst accepting its responsibility for the pace of litigation, the Court is also committed to ensuring uniform accessibility to its services through standardised practices and procedure. This will mean that particular practices arising out of local legal culture must give way to uniform practices.
- d. The Court, having regard to the interests of individual litigants, and where relevant, the interests of their children, must set realistic time limits for case preparation, monitor the progress of cases against those limits, be prepared to enforce those time limits, and ensure credibility for all scheduled events, especially for listed contested hearings.
- e. The Court's intervention, whether by conciliation, mediation or judicial hearing, must be timely from the perspective of the needs of clients. The disposition should be consistent with the circumstances of the individual case including the timely application of alternative dispute resolution techniques. "Timely" intervention is not necessarily intervention at the earliest moment.
- f. In conciliation, mediation or adjudication and in the scrutiny of proposed agreements, the Court is charged with promoting the welfare of children in matters where children are affected.
- g. Litigants are entitled to a judicial determination. However, the resolution of disputes achieved by informed parties through negotiation has the advantage that negotiated agreements can be achieved at an early stage and can be tailored to meet the needs of the parties. A wider range of settlement options is available through negotiation and there is a potential benefit to the parties both in financial and emotional terms.
- h. The administration of family law and of the case management system requires the commitment and co-operation of the Court, litigants, legal representatives, the legal professional associations and other relevant agencies.

The guidelines are to be construed and applied and the processes and procedures of the Court conducted so as best to ensure the maintenance of these principles.

II. ADMINISTRATION OF THE CASE MANAGEMENT SYSTEM

A. COMMITTEES

1. There is a National Case Management Committee, a Regional Case Management Committee in each region and a Registry Case Management Committee in each registry.
2. The National Case Management Committee comprises the members of the Chief Justice's Consultative Council. The Committee is responsible for the design and periodic review of the case management guidelines, for setting and monitoring performance standards for case management systems, and for determining and ensuring compliance with the case management procedures.
3. The Regional Case Management Committee comprises the Regional Judge Administrator, the Regional Manager, the Regional Registrar and the Regional Director of Court Counselling. The Committee is responsible for monitoring the implementation of and adherence to standard case management procedures, monitoring performance of case management systems and ensuring appropriate action is taken to address identified problems. Each Regional Committee is to report addressing the standard agenda each quarter to the National Committee on the operation of case management systems in the Region, identifying problems or issues and specifying action taken or proposed to be taken to address them.
4. The Registry Case Management Committee comprises a Judge and a Judicial Registrar (where applicable), the Registry Manager, the Registrar, the Director of Court Counselling, the List Registrar and, as required, the List Clerk. The Committee performs at the registry level a similar function to that performed by the Regional Committee at the regional level, and is to report quarterly to the Regional Committee on the operation of the registry case management system, identifying problems or issues and specifying solutions and action taken or proposed to be taken to address them. In addition, the Registry Committee monitors the progress of complex cases.

The Registry Case Management Committee is to give particular attention to the development of strategies for increasing the level of compliance with the Rules of Court by the First Directions Hearing. The Regional Committees and the National Committee are to monitor levels of compliance, strategies

and practices in use, and are to seek to ensure the ultimate adoption of effective, consistent practices across all registries.

5. Each Registry Case Management Committee shall develop a Case Management Plan for the implementation of the guidelines and for the intergration of the guidelines into the existing Registry management plan. Registry staff should be educated about the overall goals of the plan and be involved in developing aspects of the plan that relate to their work area. These registry plans are to be co-ordinated at the regional and national levels by the Regional and National Case Management Committees.
6. The various Case Management Committees are to meet quarterly with representatives of the legal profession at an appropriate level to address case management issues.

B. LISTINGS

1. Judicial Calendar

The judicial calendar (including the appeal calendar) will be prepared on a financial year basis. The Judge Administrators are to prepare judicial calendars at least 6 months in advance for each registry and region. Regional calendars and any amendments are to be forwarded to the Deputy Chief Justice.

2. List Judge

Judge Administrators are to designate a List Judge in each Registry to monitor the progress of contested matters set for hearing and ensure that the goal of commencement of hearings on the scheduled date is met in most cases. The List Judge will nominate individual Judges to preside over lists, will re-allocate matters and allocate duty matters to individual Judges. The position of List Judge may be a fixed or rotating appointment.

3. List Registrar

The Regional Registrar is to appoint a List Registrar in each registry. The List Registrar is to supervise the Pending Cases List and the listing of matters for hearing, liaise with the List Judge, manage and co-ordinate the operation of the defended lists, liaise with the Director of Court Counselling to co-ordinate the conclusion of s62(1) counselling and the scheduling of

pre-hearing conferences, and the preparation of s62A reports. The List Registrar will also prepare reports for and attend Case Management Committee meetings.

4. List Clerk

The Registry Manager is to appoint a List Clerk. The List Clerk is to be responsible for the allocation of trial dates and is to liaise with the List Judge and List Registrar in respect of the management of the defended lists.

C. CASE MANAGEMENT DATA

The Management Information Unit (MIU) is to incorporate in the general management information system, management information specific to the case management system. In particular the MIU is to design and put in place an information system which will enable periodic review of the case management guidelines, the setting and monitoring of performance standards for case management systems, and for determining and ensuring compliance with the case management procedures. There should be periodic meetings involving Judge Administrators, List Registrars and List Clerks to discuss case management issues.

D. TRAINING

All registry staff are to be trained to an appropriate level in relation to case management principles and practices generally, and in detail on their own work area. Such training is to emphasise the broader context of the Court's case management policies to place in context the specific tasks of each staff member.

E. STANDARDISATION

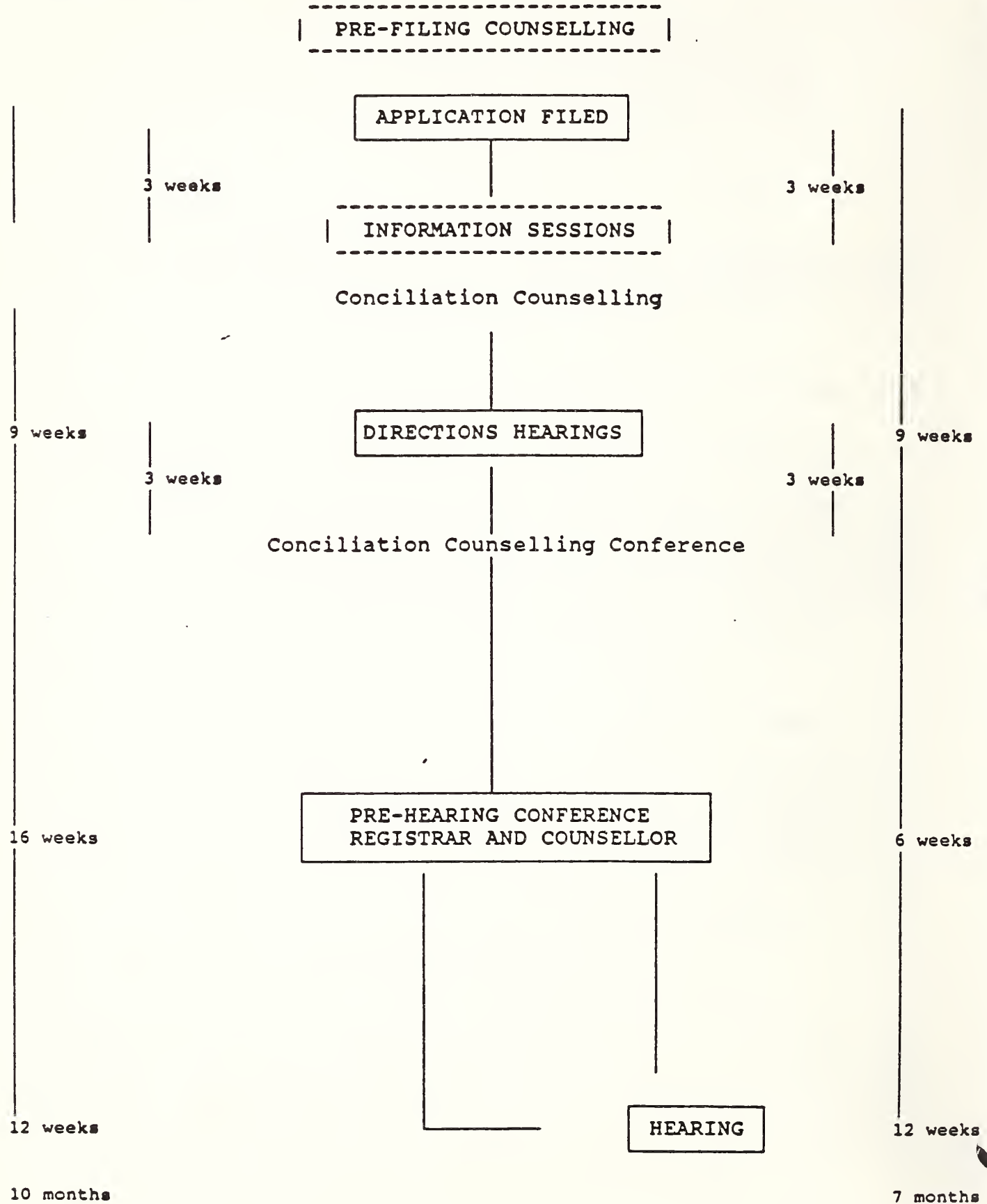
1. The memorandum provided to the Court at the conclusion of ordered conciliation counselling is standardised. The form is prescribed by the Rules.
2. A national standardised form of directions and checklist have been prepared for use in all registries by Registrars conducting Directions Hearings, conciliation conferences and pre-hearing conferences. The standard directions are to be made at the Directions Hearing. If the Court makes the directions sought the directions will be initialled, the original placed with the Court file and copies returned to each solicitor or party.

CASE MANAGEMENT IN FAMILY COURT

Children's Matters

Time Standards
(General/ Long)

Time Standards
(Short)

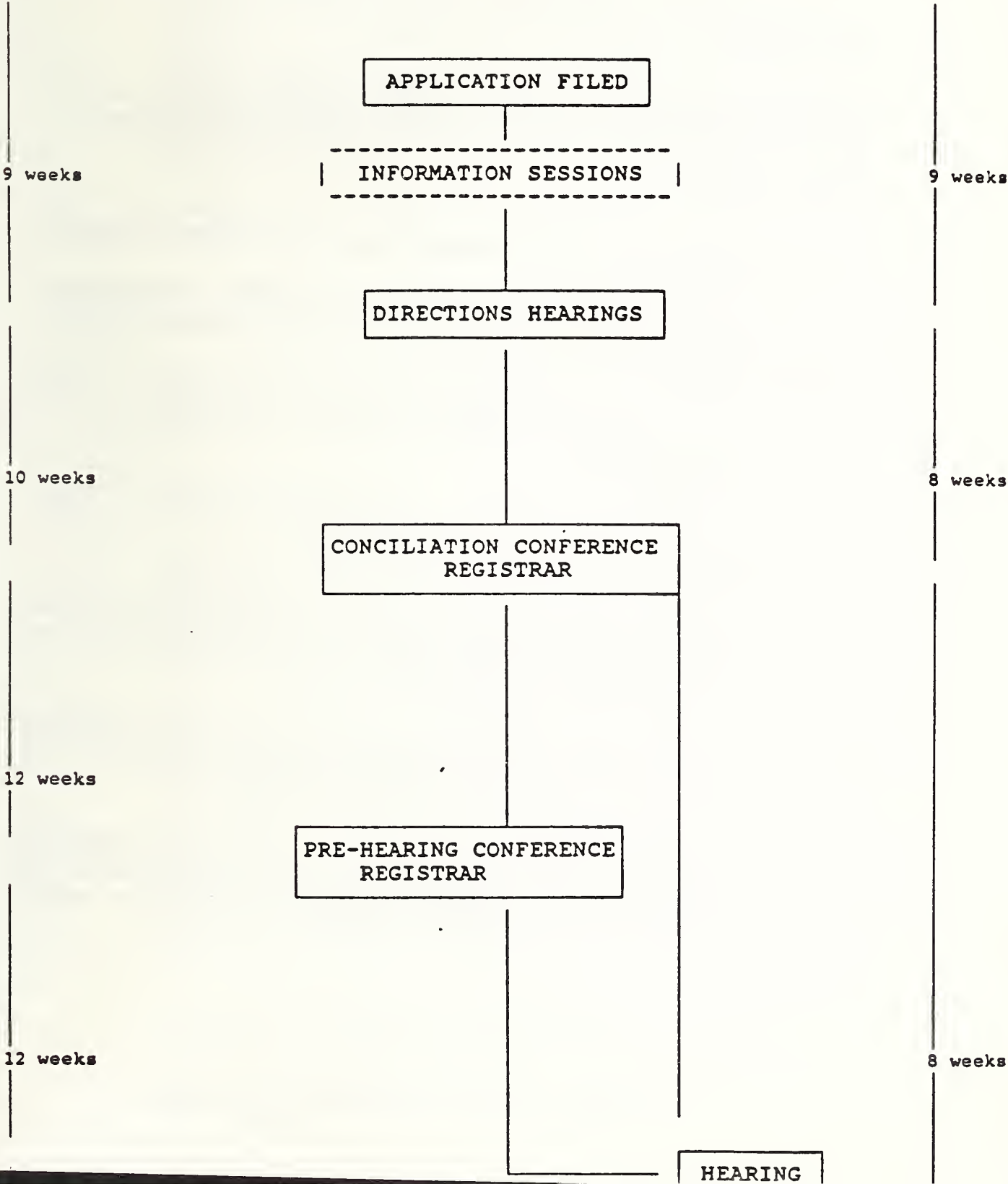


CASE MANAGEMENT IN FAMILY COURT

Financial Matters

Time Standards
General & Long)

Time Standards
(short)



III. THE GUIDELINES

IT IS TO BE NOTED THAT WITHIN THE CONTEXT OF THE GUIDELINES INDIVIDUAL MATTERS WILL BE DEALT WITH ON THEIR FACTS AND, WHERE THERE IS GOOD REASON, THE COURT MAY PERMIT DEVIATION FROM THE GUIDELINES.

1.0 PRE-FILING

- 1.1 Wherever practicable prospective litigants are to be encouraged to attend counselling or other Court-based dispute resolution programs before applications for ancillary relief are filed, unless prevented by the need to seek urgent orders from the Court.

2.0 INFORMATION SESSIONS IN PROPERTY AND CHILDREN'S MATTERS

- 2.1 In all applications concerning property, the welfare of children, non-molestation, exclusive occupancy and other injunctive relief parties will be required to attend an information session.
- 2.2 The information session will be conducted by a Registrar and a Counsellor and will address four principal areas -
- . children's issues,
 - . reactions to separation,
 - . Court processes and case management information and
 - . information on property and maintenance matters.
- 2.3 All parties will be required to attend that part of the information session that deals with reactions to separation and case management information. Attendance at the other sessions will depend on the nature of the application.
- 2.4 At the Information Session, the Registrar or Counsellor will record the attendance of all parties. At the First Directions Hearing, the Court will enquire as to attendance and will make such further directions as are appropriate.
- 2.5 In appropriate cases, for reasons of distance, physical disability, recent conciliation counselling, the terms of a recent order of a court, the nature of the relationship between the parties or other relevant circumstances the requirement may be waived.

3.0 CONCILIATION COUNSELLING IN CHILDREN'S MATTERS

- 3.1 In applications concerning the welfare of children, non-molestation, exclusive occupancy and other non-financial injunctive relief, conciliation counselling will be ordered. In appropriate cases, for reasons of distance, physical disability, recent conciliation counselling, the terms of a recent order of a court, the nature of the relationship between the parties or other relevant circumstances such an order will not be made or if made on an earlier occasion the order may be vacated.
- 3.2 Where an exemption has been granted because of recent conciliation counselling, the counsellor will, in respect of pre-filing counselling, complete a memorandum to the Court (Form 69).
- 3.3 In cases where physical attendance is not practicable, telephone conferences may be ordered.
- 3.4 Parties will be informed of the time and date of conferences by a standard letter from the Director of Court Counselling to the parties with a copy to each solicitor.
- 3.5 At the conclusion of the counselling conference a counsellor will complete a memorandum to assist on the Directions Hearing.

4.0 PENDING CASES LIST

- 4.1 Each Registry will maintain a Pending Cases List (PC List) comprising all cases which proceed beyond the First Directions Hearing. Applications for principal relief will not be entered on the PC List unless otherwise ordered. Except when it is inappropriate to do so, applications should be consolidated and given priority on that list in accordance with the date of filing of the oldest outstanding application.
- 4.2 The PC List is a queuing device which ensures that the progress of all cases is supervised and that matters are dealt with in priority order. It shows the length of time matters have been on the list.
- 4.3 Matters will not be removed from the PC List until determined by final orders or by the dismissal or discontinuance of all outstanding applications. It is essential that matters be removed from the PC list when finally determined and to this end practitioners should file a Notice of Discontinuance.

5.0 SEQUENCE OF CALLING THE DUTY LIST

Subject to the discretion of the Court in a particular instance Duty lists will be called in the sequence prescribed in this paragraph.

5.1 Registrars' Duty List

- . matters falling outside the Registrar's jurisdiction which are to be determined that day are to be transferred at 9.45am This includes matters which are not immediately ready to proceed,
- . unopposed adjournments (eg matters not served or where inadequate notice has been given or matters not requiring further orders at that stage),
- . consent "final" orders which have been reduced to writing (this does not include procedural orders),
- . consent orders (excluding Direction Hearings),
- . unopposed matters and direction hearings,
- . short opposed matters (less than 20 minutes),
- . opposed matters.

5.1.1 Where necessary during the course of a duty list the Registrar may conduct a call-over of the matters remaining in the list for the purposes of giving parties and legal representatives an indication of when their matter will be dealt with and to assist in the management of the list.

5.1.2 Matters transferred to the Judicial Duty List will be accompanied by a sheet completed by the representatives which deals with time estimates and contentious issues and sets out the following information for all matters to be transferred (Attachment A):-

- . proceedings number,
- . proceedings name/s, ,
- . appearances,
- . issues for determination that day,
- . whether the matter is ready to proceed or has been stood down to allow counselling,
- . whether the matter needs to be referred back to the Registrar for directions.

(A suitably endorsed copy of the Registrars' Duty List may be used for this purpose).

Any matters requiring directions may be referred back to the Registrars' Duty List.

5.2 Judicial Duty List

- . consent orders,
- . unopposed matters,
- . short opposed matters (20 minutes),
- . opposed matters.

Lists will continue until all matters are dealt with. This is subject to the discretion of the Court to allocate matters a "not before" marking.

6.0 DIRECTIONS HEARING

This guideline does not apply to urgent or interim matters.

- 6.1 It is expected that the Rules as to the service and filing of documents will have been complied with by the First Directions Hearing at which time appropriate procedural directions will be made including orders for conciliation or further conciliation.
- 6.2 In the event that the Rules have not been complied with an inquiry will be made as to the reason for that non-compliance and in appropriate cases the question of awarding costs (including making an order that a legal representative pay or repay the costs) will be considered.
- 6.3 In those cases in which the Rules have not been complied with, directions will be made and the matter will be adjourned to a date fixed to ensure compliance with those directions.
- 6.4 The Directions Hearing is usually the first occasion on which proceedings come before the Court. The parties must attend if the initiating application has been properly served and the matter has not settled prior to the Directions Hearing. The Directions Hearing is to be attended by a solicitor or counsel having the conduct of the matter or being otherwise fully conversant with the matter.
- 6.5 The attendance of the parties facilitates settlement negotiations and may result in the disposition of some or all of the issues at an early stage. Their attendance also enables the parties to appreciate the impact of procedural directions and the steps along the Case Management pathway and in particular to appreciate their obligations and those of their legal representatives for the timely preparation of the case.
- 6.6 If it is impracticable for one or both of the parties to attend for reasons of distance, physical disability, the terms of a recent order of a court, or other appropriate reason the Registrar may excuse the non-appearance.

- 6.7 When an application is made for an adjournment by consent, the Registrar will investigate the merits of the application and make an assessment before proceeding to make an order.
- 6.8 Generally, the parties will be allowed to extend or adjourn the Directions Hearing date by consent to enable conciliation options to be explored fully.
- 6.9 If the Registrar considers that a party or solicitor has not pursued or defended the application with due diligence the Registrar may:
- (a) strike out a pleading;
 - (b) make an order for costs;
 - (c) direct that the matter lose priority in the PC List, or
 - (d) refer the application to the Judicial Duty List for consideration of dismissal of the application, or for the determination of the application as undefended.
- 6.10 Immediately prior to the Directions Hearing the Solicitors for each party shall deliver to that party a memorandum in writing setting out:-
- (a) the approximate costs of the party up to and including the Directions Hearing, and
 - (b) in children's matters, the estimated future costs of the party up to and including the Pre-Hearing Conference, or
 - (c) In financial matters, the estimated future costs of the party up to and including the Conciliation Conference.
- 6.11 The Solicitor shall at the request of the Court at the Directions Hearing provide to the Court a copy of the said memorandum. If such a request is made and complied with, the memorandum is to be returned to the Solicitor at the conclusion of the Hearing.

7.0 CONCILIATION

7.1 Children's Matters

- 7.1.1 Directors of Court Counselling will develop procedures to ensure all reasonable avenues of conciliation and/or mediation are exhausted, having regard to the particular needs of the family and the time frame available, before the case progresses to the Pre-Hearing Conference.

7.1.2 In all children's matters which have not been resolved at the First Directions Hearing, a Conciliation Conference will be ordered under s62(1). There should be sufficient flexibility in the Directions Hearing timetable to enable counselling to be fully explored and to permit further counselling.

7.1.3 Apart from Pre-Hearing Conferences, co-conferencing with Registrars and counsellors should occur only when other methods of conciliation have been exhausted and have not resolved the matter or when there are enmeshed children's and property issues.

7.2 Financial Matters

7.2.1 A Conciliation Conference in financial matters will not be appointed until the requirements of the Rules for the filing of pleadings have been complied with. In making the appointment consideration shall be given to the time required for the completion of any necessary interlocutory steps.

7.2.3 By holding conferences under Order 24, the Court provides the parties with an opportunity to reach agreement on relevant matters and parties are expected to make a bona fide endeavour to reach agreement and to provide at the conference all relevant and significant documents as required under Order 24 rule 2.

7.2.4 Each party is to lodge with the senior registrar's secretary and exchange with the other parties a list of assets and liabilities not later than 48 hours prior to the Conciliation Conference.

7.2.5 Where a Registrar has presided at a Conciliation Conference in a matter that Registrar may thereafter:-

- (a) make procedural orders from the bench in that matter;
- (b) make procedural orders in chambers, or
- (c) conduct a Pre-Hearing Conference and make procedural orders at that conference.

7.2.6 If one party fails to attend the Conciliation Conference the Registrar may:-

- (a) determine any application for a costs order against that party;
- (b) request that an explanation be provided either by letter, affidavit or in person for failure to attend;
- (c) list the matter in a Registrars' Duty List for further directions, or
- (d) adjourn the conference with directions.

7.2.7 If neither the parties nor their solicitors appear at the Conciliation Conference the Registrar may refer the matter to the Duty List for consideration of the dismissal of the application. The legal representatives and the parties are to be notified that the matter has been listed.

7.2.8 Where there has not been sufficient compliance with Order 24 Rule 2, or with directions in respect of interlocutory procedures, or if for any other reason the conference is unable to proceed, a Registrar may:-

- (a) adjourn the conference with directions;
- (b) make an order for costs;
- (c) list the matter in a Registrars' Duty List for further directions;
- (d) list the matter in a Judicial Duty List for consideration of the dismissal of the matter or orders in default, or
- (e) adjourn the conference to a Pre-Hearing Conference with directions.

7.2.9 Immediately prior to any Conciliation Conference the Solicitor for each party shall deliver to that party a memorandum in writing setting out:-

- (a) the approximate costs of the party up to and including the Conciliation Conference, and
- (b) the estimated future costs of the party up to and including the Pre-Hearing Conference.

7.2.10 The Solicitor shall, at the request of the Registrar conducting the Conference, provide to the Registrar a copy of the said memorandum. If such a request is made and complied with, the memorandum is to be returned to the Solicitor at the conclusion of the Conference.

7.3 Mediation

7.3.1 Where Court-based mediation is available and proceedings have commenced the same general time standards set out in paragraph 12 will apply according to the type of case.

8.0 COMPLEX CASES

Complex cases need to be identified and given particular attention.

8.1 Definition

For the purposes of case management a case may be identified by the Case Management Committee as complex if it possesses one or more of the following features:-

- . has not been finalised despite a previous defended hearing,
- . is a long defended case,
- . involves voluminous and/or complex issues or evidentiary material,
- . involves complicated psychological or emotional issues, or
- . involves complex social dynamics.

Classification of a matter as complex may take place at any stage of the proceedings.

8.2 Strategy

Complex cases will be specially identified on the PC List and on the file cover and the progress of those cases will be monitored by the Registry Case Management Committee. The Committee will supervise the management of all complex cases and of the complex case procedure. The Committee will ensure that complex cases are properly identified and that they are individually managed by assignment to a Judge, Judicial Registrar, Registrar and Counsellor. The Committee will provide advice and guidance for the management of complex cases.

As far as possible complex cases will be listed before the same Judge, Judicial Registrar or Registrar for interim and interlocutory procedures.

9.0 CHILD ABUSE CASES

In light of legislative requirements special management is needed of cases in which there has been a notification. These guidelines will be subject to revision when national protocols have been negotiated with all State and Territory welfare authorities.

9.1 The following guidelines are confined to the Court's management of child abuse cases. Policy guidelines exist which cover the mandatory reporting of child abuse and liaison with State welfare authorities and other appropriate agencies.

9.2 Each case should be individually assessed in terms of the nature of the abuse, the urgency of the case and the need to make urgent orders which will promote the welfare of the child/ren and will determine the issues as soon as practicable.

9.3 In cases where a notice is filed under s70BA the Registrar or Counsellor and in respect of a notification under s70BB the Registrar should inform the State welfare authority of the date of the First Directions Hearing with a request that the Authority advise the Court at or before that listing whether it:

- . intends to intervene in the proceedings,
- . is agreeable to the matter proceeding in the Family Court and does not seek to be heard further in the matter,
- . seeks further time to consider its position.

9.4 In cases where an allegation of child abuse has been made before a Directions Hearing it is normally appropriate for a conference to be ordered under s62(1) or Order 24. While counselling may be inappropriate as a means of resolving the dispute it can be used for case management purposes with the memorandum from the counsellor providing information about notification under s70BB and recommendations as to the need for a Family Report with priority and the need for a Separate Representative for the child/ren.

9.5 Where the Court makes a request under s91B:

- . the parties to the proceedings will be advised of the request, and
- . the Registrar will formally advise the State welfare authority of the request.

The Registrar or his/her nominee (excluding any person involved in conciliation counselling) will advise the local/regional office of the State welfare authority of the request and give such information and/or assistance as appropriate including furnishing copies of Court documents. The information and documents so provided shall not include information or documents emanating from privileged counselling.

In making a s91B request the Court will take account of the need to set a return date which allows the State welfare authority sufficient time to respond adequately to the request. This will usually be a minimum of three weeks.

9.6 Prior to or upon a case involving an allegation of child abuse reaching a Directions Hearing consideration should be given to the appointment of a Separate Representative for the child/ren under s65.

Consideration should be given at such time to:

- . any orders necessary to promote the welfare of the child/ren,
- . the ordering of a Family Report,

- . clarification of the position of the State welfare authority, and
- . the timely hearing of the matter by either fixing a second Directions Hearing or a Pre-Hearing Conference.

9.7 A subsequent Directions Hearing should be set down no later than four weeks after the previous Directions Hearing.

At the subsequent Directions Hearing the Separate Representative:

- . may seek an order for a Family Report under s62A or an assessment under s65A or equivalent;
- . should give some indication of the evidence that he/she will be calling;
- . should indicate any other orders sought on behalf of the child/ren.

The matter should be set down for a Pre-Hearing Conference and a decision made about the timing of the completion of the Family Report or the report under s65A and arrangements made for the timely hearing of the matter.

9.8 Consideration of the best interests of the child will underpin any exchange of information between the Family Court and the State Welfare Authorities. In those States where there is an existing protocol with a State welfare authority, the case will be managed in accordance with that protocol.

10.0 FAMILY REPORTS

10.1 Family Reports should not be ordered at the First Directions Hearing except in exceptional circumstances or in child abuse cases;

10.2 When Family Reports are ordered this will normally occur at the Pre-hearing Conference. The order for a Family Report should be made no earlier than 12 weeks and no later than 8 weeks prior to a hearing.

10.3 Save in exceptional circumstances, the practice of ordering Family Reports for interim hearings (sometimes referred to as "Duty" reports) has been discontinued.

10.4 The practice of preparing "split" reports, has been abandoned. (Split reports occur where a Family Report in a matter involving parties living considerable distances apart is prepared in two parts by two different counsellors neither of whom has seen and assessed all the children and significant adults.) Instead, reports are prepared by arranging for the parties to attend for interviews at the registry where the hearing is to take place. These interviews can be scheduled just prior to the

hearing or at other times at the discretion of the Director of Court Counselling. Alternatively the counsellor will interview the parties in their respective localities.

- 10.5 In all cases where a counsellor proposes to make a recommendation for a Family Report the counsellor will discuss the recommendation with the Casework Supervisor or the Director of Court Counselling, as appropriate.
- 10.6 Family Reports may be ordered where one or more of the following apply:
- (a) There is a dispute as to the wishes of a child and the child is of sufficient maturity for these to be significant;
 - (b) There is a dispute about the relationship between a child and either or both parties or other significant persons;
 - (c) The circumstances are such that a report is the best method of obtaining evidence significant to the welfare of the child which requires expert assessment within a counsellor's field of expertise;
 - (d) If there is a child at risk, that is where there are allegations of neglect or child abuse, either physical (including sexual), or emotional;

If the preparation of a Family Report is not ordered at the Pre-Hearing Conference, a party seeking the preparation of a Report must file and serve a Form 8 supported by an affidavit as to the reasons for such a Report. That application shall be returnable at least 2 and not more than 5 days after filing.

- 10.7 Counsellors preparing Family Reports in matters involving allegations of child abuse will not conduct a forensic investigation into the truth of such allegations.

11.0 PRE-HEARING CONFERENCES (PHC)

- 11.1 Pre-Hearing Conferences will be held in all unresolved defended matters.
- 11.2 Pre-Hearing Conferences will be ordered by a Registrar pursuant to Order 24. A further attempt at conciliation and negotiation will be made in appropriate cases. The conference will comprise two phases - a conciliation phase and a directions phase. At the conclusion of the Conciliation Conference a Directions Hearing will be conducted in the matter. All reasonable avenues of conciliation and/or mediation are to be exhausted before matters progress to a Pre-Hearing Conference. In implementing this guideline in children's matters regard will be had to the particular needs of the family and the timeliness of judicial intervention.
- 11.3 In short matters the Pre-Hearing Conference will be conducted at the conclusion of the Conciliation Conference. In other matters, and in matters in which there is no

Conciliation Conference with a Registrar, a separate Pre-Hearing Conference will be ordered and the legal representatives of the parties will be advised of the date by notice in writing.

- 11.4 In General and Long matters the Registrar conducting the Conciliation Conference shall appoint a date for Pre-Hearing Conference and make necessary directions. The directions should take into consideration the provisions of Order 11 Rule 20 and ensure that all interlocutory procedures are completed prior to the anticipated Pre-Hearing Conference date. The Registrar may, if appropriate, list the matter in a Registrars' Duty List to ensure that the directions made at the Conciliation Conference have been complied with.
- 11.5 The Pre-Hearing Conference in child welfare matters will be appointed following consultation between the List Registrar and the Counselling Section. It is intended that the counsellor who conducted the counselling Conciliation Conference will normally attend the conference.
- 11.6 The Pre-Hearing Conference is to be attended by the parties and their legal representatives and, in particular, a solicitor or counsel having the conduct of the matter or who is fully conversant with the matters set out in 11.7.1. If it is not practicable for one or both of the parties to attend for reasons such as distance, physical disability or other acceptable reason the Registrar may excuse that non-appearance.
- 11.7.1 At the Pre-Hearing Conference, the legal representatives for the parties are to be able to satisfy the Registrar as to matters such as:
- . the nature of the relief sought,
 - . the issues of fact and law,
 - . whether any amendment to the pleadings is anticipated or required, including the consolidation of applications,
 - . compliance with relevant Rules, and any previous directions or orders of the Court,
 - . completion of all necessary interlocutory matters, including discovery and inspection,
 - . completion of any steps that need to be undertaken prior to hearing including, if appropriate, the preparation of a s62A report or the appointment of a separate representative,
 - . the number of expert witnesses and their availability,

- . an accurate assessment of the likely duration of the hearing,
- . the prospect or likelihood of settlement,
- . any other matter which might affect the readiness for trial or scheduling for trial (eg interstate, distant country or incapacitated parties or witnesses, the need for interpreters etc).

11.7.2 The Registrar will allocate a "not before" date for hearing and, in consultation with the legal representatives, make directions prescribing a timetable in respect of matters which may affect the readiness for trial. In particular, consideration will be given to:-

- . a timetable as to the filing of amended pleadings if required,
- . the filing of affidavits of evidence in chief and in reply of the parties and witnesses,
- . the exchange of reports of expert witnesses and, if appropriate, the holding of a conference of experts pursuant to order 30A,
- . the filing and service of any further procedural applications. Any such application is to be listed before the Trial Judge for determination,
- . the provision of information to the List Clerk in accordance with Guideline 11.9,

And, in matters where a Family Report is to be ordered:-

- . the preparation of the Report by a specified date, such date to be at least 3 weeks prior to the trial date,
- . the delivery of any request for the Counsellor preparing the report to be available for cross examination to the Director of Court Counselling no later than 7 days prior to trial.

11.7.3 Unless otherwise directed by the Registrar or by the Court all parties are to file and serve Lists of Pleadings and Affidavits to be relied upon not later than 1 clear working day prior to the commencement of the hearing and are to hand up a Chronology of Events at the commencement of the hearing.

11.7.4 Except when it is inappropriate to do so, all matters at issue between the parties should be consolidated and heard together.

- 11.8 If a solicitor, counsel or party who has been notified to attend a Pre-Hearing Conference fails to attend, or the conference is unable to proceed because of non-compliance by a party with directions or for any other reason, the Registrar may:-
- (a) adjourn the conference with directions;
 - (b) make an order for costs;
 - (c) List the matter in a Registrars' Duty List for further directions, or
 - (d) list the matter in a duty list for consideration of dismissal of the matter or orders in default, the Court to notify the parties and their solicitors.

11.9 Approximately 21 days prior to the trial date the List Clerk will telephone the legal representatives and confirm that they have complied with the directions made at the PHC. In the event that the directions have not been complied with, the List Clerk will appoint a time for the holding of a Compliance Conference which the legal representatives of all parties will attend and provide the following information:-

- (a) whether the matter is ready to proceed and, if not, why;
- (b) name of Counsel briefed (if any) or the advocate;
- (c) the number of witnesses to be called;
- (d) whether all directions have been complied with and all relevant documents filed;
- (e) whether there is likely to be an application for an adjournment, and
- (f) whether there is any likelihood of settlement.

If it appears at that Compliance Conference that the matter may not be ready to proceed on the scheduled hearing date, the matter upon consultation with the List Judge will be listed for directions as soon as practicable before the relevant Trial Judge or before the List Judge.

11.10 Immediately prior to any Pre-Hearing Conference the Solicitor for each party shall deliver to that party a memorandum in writing setting out:-

- (a) the approximate costs of the party up to and including the Pre-Hearing Conference, and
- (b) the estimated future costs of the party of the preparation for the defended hearing and the actual hearing.

- 11.10.1 The Solicitor shall, at the request of the Registrar conducting the Conference, provide to the Registrar a copy of the said memorandum. If such a request is made and complied with, the memorandum is to be returned to the Solicitor at the conclusion of the Conference.

12.0 LISTING

- 12.1 A uniform listing system and standardised listing practices will be adopted in the Court as follows:-
- (a) Dates for Directions Hearings will be allocated at the time of filing and, as a general principle, will be approximately 9 weeks after filing. This is intended to give applicants time to serve and respondents sufficient time to answer the application in accordance with the Rules.
 - (b) Unless otherwise directed by the Court, all applications will be listed in the first instance before a Registrar.
 - (c) Pre-hearing conferences will be appointed by direction made either at the conclusion of the Conciliation Conference, at a Directions Hearing or in Chambers. In the event that the direction is made in Chambers and in the absence of the legal representatives, the Solicitors on record for the parties will be notified by letter.
 - (d) All registries are to adopt listing practices which ensure that very short matters (under 2 hours), especially undefended matters, are not listed in the defended lists, but are dealt with in duty lists. Urgent matters should, with the leave of the Court, be referred to the List Clerk, or where appropriate, the Listing Judge for special fixture.
 - (e) All matters are to be identified as short, general or long defended at the first Direction Hearing on the basis that the hearing of a matter is estimated to take 1 day or less, in excess of 1 day but no more than 4 days, and more than 4 days respectively, and that matters are to be so endorsed on the PC List. The categorisation is subject to review as the matter proceeds.
 - (f) All registries in which a Judicial Registrar is available to hear contested matters are to implement procedures to identify matters within a Judicial Registrar's jurisdiction in the PC List, and where appropriate to list those matters before a Judicial Registrar for final determination.
 - (g) The commencement dates for each matter are to be calculated on an overlisting basis as determined by the Judge Administrator of each region having regard to the needs of the individual registry. The overlisting ratios

should be reviewed from time to time in the light of experience, the number of Judges available and the requirements of individual matters.

- (h) As a general rule, matters should be listed for hearing no more than 8 weeks in respect of short matters and 12 weeks in other matters from the date of the Pre-Hearing Conference so as to preserve maximum flexibility in the listing system.
- (i) Defended matters are to be set down in individual Judge lists (referred to as "Judge Specific Lists") which are to be prepared in listing cycles of 4-5 weeks. The Judge Administrator or a nominee on his behalf with the assistance of the List Registrar and List Clerk will assign the matters for hearing to those lists 4 weeks before the commencement of each listing cycle.
- (j) The matters are to be allocated to a Judge Specific List, listed in sequence and given a "not before" commencement date. The aim will be to ensure that so far as practicable the date assigned is the date on which the matter commences.
- (k) Matters involving issues of particular urgency or significance or parties and witnesses who have to travel long distances or which otherwise require certainty of listing are to be listed so far as possible at the commencement of a list.
- (l) Following the commencement of a hearing, the matter should proceed to a conclusion without an adjournment except in exceptional circumstances. The practice of adjourning cases part-heard is to be avoided.
- (m) Any matter in which the hearing cannot be commenced at the scheduled time is to be reallocated by the List Judge and listed before any other available Judge. If no other Judge is available the matter may be stood down in the list until 2.15pm. If it cannot be commenced at that time it is to be referred to the List Judge so that consideration may be given to listing the matter on the following day, the allocation of a special fixture or such other order as is deemed appropriate.
- (n) Any matter not heard by the end of the list is to be allocated a date in the next available list with priority.
- (o) Listed cases which do not proceed to hearing for any reason will, in the absence of any other direction, be referred to the List Registrar.
- (p) The Judge's Associate is to liaise with the List Clerk and give the legal representatives and/or the parties, where unrepresented, the maximum possible notice of the likely commencement time.

- (q) It is the general policy of the Court that adjournments of listed cases be limited to those instances in which unforeseen and exceptional circumstances require diligent legal representatives to request an adjournment. Thus applications for the adjournment of matters which have been listed for hearing will be granted sparingly and, if granted, may result in orders for costs. The decision is one for the Court.
- (r) In the event that liberty is granted to apply in respect of matters arising out of orders made, an application to restore the matter to the list for that purpose must be made by letter to the Registry Manager.
- (s) At the commencement of the final defended hearing of any application (other than an interlocutory application) the Solicitor for each party shall deliver to that party a memorandum in writing setting out:
- . the approximate costs of the party up to and including the first day of the hearing,
 - . the cost per day of the hearing, and
 - . the estimated length of the hearing.

12.2 Sitting Hours

This guideline includes small registries and circuits.

- 12.2.1 Normal sitting hours will apply in all Registries subject to the discretion of the Court hearing a particular case and to arrangements which may be made in respect of circuit sittings. For example circuit sitting hours may be adjusted on the first and last day of the sittings to ensure that each is a full day's sitting. It is within the discretion of the Judge Administrator to determine appropriate sitting hours for circuit sittings.

12.2.2 Registrars' Duty Lists

The Registrars duty lists will commence at 9.45am and continue to 12.45pm, re-commence at 2.15pm and continue to 4.15pm.

12.2.3 All Other Lists

All other lists including dissolution lists, duty lists and contested hearing lists will commence at 10.00am and continue to 1.00pm, re-commence at 2.15pm and continue to 4.15pm.

12.3 Cross Vested Matters

It is not appropriate for cross vested matters to be dealt with pursuant to Order 31 Rule 8. Such matters should be listed no more than 4 weeks from the date of filing in the Registrars' Duty List on a day when a Judge is sitting in a Judicial Duty List or is otherwise available to hear the matter.

13.0 APPEALS

13.1 Appeals and Transfers from Courts Of Summary Jurisdiction

Upon the transfer of proceedings from a court of summary jurisdiction the papers will be forwarded to a registry of the Court. When the papers are received the Registry Manager will list the proceedings in a Registrars' Duty List in approximately 4 weeks and notice of the date will be sent to the parties at their respective addresses for service. Appeals from a court of summary jurisdiction are to be referred to the Registry Manager and allocated a date for hearing within 4 weeks from the date of filing.

13.1.2 The matter will then proceed as if it was instituted in the Family Court but shall have priority in the Pending Cases List from the date the proceedings were instituted in the court of summary jurisdiction.

13.2 Applications for Review of Decisions of Judicial Registrars and Registrars Applications for review will be returnable in a Registrars' Duty list 14 days after filing.

13.2.2 In the case of urgent, interim or interlocutory proceedings any necessary directions will be made and the matter will be referred to the List Clerk for the allocation of a hearing date in the next available list. In the case of contested property orders or any review deemed to be a general or long cause, the matter may be referred to a Pre-Hearing Conference.

13.3 Appeals To The Full Court

13.3.1 It is the Court's policy to minimise the opportunities for an appeal to be used as a negotiating tool and/or a delaying tactic on behalf of one party. The aim of the Court's appellate system is to afford parties full and fair access to the due processes of the law, to ensure that the Court's standards of judicial decision-making are maintained and to resolve in a consistent manner questions which are novel, difficult, the subject of conflicting authorities or of importance in the general public interest or in the administration of the Family Law Act 1975.

13.3.2 The general standard of expedition which the Court has set for the disposal of appeals is 6 months from filing of a notice of appeal to the delivery of judgment. This will not be possible for every case, for example, where the complexity of the issues requires the reservation of the judgment, but it is the

aim for the bulk of cases. In any event, no more than 6 months should elapse between filing and hearing. To achieve this aim it is necessary to set a timetable to which parties and their legal representatives should adhere. Progress of this timetable should be monitored by the Deputy Registrar (Appeals) in the Appeals Registry.

- 13.3.3 The provisions of Order 32 rule 18 may be used, although not exclusively, to dispose of cases which are not prosecuted with reasonable diligence, and where there appears to be no good reason for the delay.

13.3.4 General Timetable

- (a) Notice of Appeal filed and appointment made to settle the appeal book index with 2-3 weeks (Conciliation Conference may be appointed to take place on the same date);
- (b) Appellant to file draft index 7 days before the appointment to settle the index to the Appeal books;
- (c) Appeal book index settled and earliest available hearing date allocated. Solicitors should advise estimated length of hearing and current state of preparedness (ie. whether any problems anticipated, eg legal aid appeal pending, previous solicitor holding lien on papers, client in financial difficulties, etc). The general time standard for the disposition of appeals is 6 months from the filing of the notice of appeal to the delivery of judgment;
- (d) Appeal books to be filed 6 weeks prior to hearing date;
- (e) Lists of authorities and summary of argument and Chronologies to be filed 48 hours prior to hearing;
- (f) Orders
 - (i) If ex tempore judgment given, result noted on records and orders sent out within 1 week after hearing,
 - (ii) If judgment is reserved, await Full Court's decision and orders sent out within 1 week;
- (g) Application for costs and/or costs certificate to be made orally at time judgement is delivered or application to be filed in accordance with Form 42A within 1 month of the making of the decree.
- (h) Reasons for judgment handed to parties when judgment delivered and ex tempore judgments forwarded to parties after being settled by the Full Court.

- (i) In matters where an order has been made for rehearing, the matter is to be referred by the Regional Appeal Registrar to the Judge Administrator or the nominee on his behalf to make necessary directions and, if appropriate, list the matter for hearing.

Any problems with the listing, preparation of appeal books, withdrawal of proceedings, etc, must immediately be communicated to the Regional Appeal Registrar. It is essential that the Regional Appeal Registrar knows at all times the state and progress of the matter.

The normal, but not exclusive, method for the Court to finalise appeals where the parties do not show reasonable diligence in ensuring the appeal progresses is to use the provisions of Order 32 rule 18. Parties expose themselves to this possibility if they fail to conform without good cause to the timetable which has been set down by the Regional Appeal Registrar. (Notice of the intention of the Court to dismiss the appeal must be given at least 21 days before the making of the order.)

13.3.5 Regional Appeals Registrars are responsible for monitoring the progress of all appeals to ensure timely progress and take appropriate action in accordance with the appeals manual when appeals do not proceed within an appropriate time frame.

13.3.6 Conciliation conferences have been introduced on a trial basis in appeals.

14.0 TIME STANDARDS

The following time standards will apply to the completion of the key stages of the litigation process covered by these Guidelines. Registries are expected to meet the following time standards, however, the Judge Administrator may authorise some departure from the intermediate time standards in small registries and for circuit sittings. The standards are as prescribed in this paragraph.

14.1 For financial matters estimated to take up to 1 day to hear [short matters]:

- a. Filing to Directions Hearing - 9 weeks;
- b. Directions hearing to commencement of Conciliation Conference (incorporating Pre-Hearing Conference) - 8 weeks;
- c. Commencement of Conciliation Conference (incorporating Pre-Hearing Conference) to hearing - 8 weeks,
- d. Total elapsed time from filing to hearing for matters not earlier resolved - 6 months.

14.2 For financial matters estimated to take more than 1 day to hear [general and long matters]:

- a. Filing to Directions Hearing - 9 weeks;

- b. Directions hearing to commencement of Conciliation Conference - 10 weeks;
- c. Commencement of Conciliation Conference to Pre-Hearing Conference - 12 weeks;
- d. Pre-Hearing Conference to hearing - 12 weeks;
- e. Total elapsed time from filing to hearing for matters not earlier resolved - 11 months.

14.3 For child welfare matters estimated to take less than 1 day [short matters]:

- a. Filing to pre Directions Hearing Conciliation Conference - 3 weeks;
- b. Filing to Directions Hearing - 9 weeks;
- c. Directions hearing to S62(1) conference - 3 weeks;
- d. Directions hearing to Pre-Hearing Conference - 6 weeks;
- e. Pre-Hearing Conference to hearing - 12 weeks;
- f. Total elapsed time from filing to hearing for matters not earlier resolved - 7 months.

14.4 For child welfare matters estimated to take more than 1 day [general and long matters]:

- a. Filing to pre Directions Hearing Conciliation Conference - 3 weeks;
- b. Filing to Directions Hearing - 9 weeks;
- c. Directions hearing to S62(1) conference - 3 weeks;
- d. Directions hearing to Pre-Hearing Conference - 16 weeks;
- e. Pre-Hearing Conference to hearing - 12 weeks;
- f. Total elapsed time from filing to hearing for matters not earlier resolved - 10 months.

GLOSSARY OF TERMS

Directions Hearings

These hearings are usually conducted by Registrars for the making of directions on the first or subsequent return dates of applications other than applications for principal relief

Dissolution Lists

Lists usually conducted by Registrars for the determination of applications for dissolution of marriage

Enforcement Lists

Lists usually conducted by Registrars for the enforcement of orders and assessments for the payment of money including child support

Judicial Duty List

Lists conducted by Judges and Judicial Registrars wherein urgent and interlocutory relief is sought in respect of issues which are outside the jurisdiction of a Registrar

Registrar Duty Lists

Lists conducted by Registrars including Directions Hearings, interlocutory matters and consent orders

Short matters

Matters in which the trial is estimated to take 1 day or less

General matters

Matters in which the trial is estimated to take between 1 and 4 days

Long matters

Matters in which the trial is estimated to more than 4 days

Conciliation Conference

A conference held in the presence of a registrar pursuant to order 24 of the Rules or s79(9) of the Act.

Conciliation Counselling Conference

A conference held with a court counsellor or welfare officer to discuss the welfare of the child and, if there are any differences between the parties as to matters affecting the welfare of the child, to endeavour to resolve those differences. [s62(1)]

Conciliation Counselling

Counselling to assist parties to a marriage or parties to proceedings and their children to adjust to the consequences of marital breakdown. These conferences involve procedures for the resolution by conciliation of matters arising both prior to and after the commencement of proceedings [s16A]. Conciliation counselling can be voluntary (initiated by the parties, their solicitors or other welfare agencies) or Court ordered (ordered by the Court under Order 24, s62(1), s64(1AA) or s112AD). Evidence of what was said by the parties at such conferences is not admissible in any Court. In practical terms, there is no distinction between a conciliation counselling conference and conciliation counselling.

DUTY LIST

Matter Name: _____

Number: _____

Issues requiring determination:

Time Estimates of Each Party

(Including the reading of material, cross-examination, and submissions)

1. APPLICANT'S CASE

Time

Counsel/Solicitor
for Applicant

2. RESPONDENT'S CASE

Time

Counsel/Solicitor
for Respondent

3. SR/INTERVENOR'S CASE

Time

Counsel/Solicitor
for SR/Intervenor

TOTAL TIME: _____
(Applicant to complete)

APPENDIX C

Case Management Information Brochure

What if I am on Legal Aid?

If you are applying for Legal Aid, after you have been served with papers in a case which has been designated for Case Management, you must go to your local Legal Aid office immediately.

The Legal Aid offices in Toronto are fully aware of the implications of Case Management and will deal with your case expeditiously.

The Toronto pilot project started on December 2, 1991.

For further information speak to your lawyer, your court office or contact the Joint Committee on Court Reform.

Joint Committee on Court Reform
Kathryn Noxon
Canadian Bar Association - Ontario
200 - 20 Toronto Street
Toronto, Ontario
M5C 2B8
Tel. (416) 869-1047
Fax (416) 869-1390

Case Management Court Locations and Information telephone numbers.

311 Jarvis St.
965-8280

145 Queen St. West
327-5518

361 University Ave.
327-6186

Toronto Case Management

information
brochure



Advocates' Society
Canadian Bar Association - Ontario
County and District Law Practitioners' Association
Criminal Lawyers' Association
Law Society of Upper Canada
County of York Law Association

COURT LOCATIONS
311 Jarvis St.
145 Queen St. West
361 University Ave.

What is Case Management?

Case Management is a new administrative system where the same judge supervises and manages a case in non-criminal matters from the start to the finish. Case Management will apply to civil cases and to family law cases including child protection cases. It sets a strict timetable for the orderly progression of a case through to its end.

The involvement of a Case Management judge early in the process is expected to shorten the length of time it takes to complete a case and in many cases, it is expected that the presence of a Case Management Judge early in the process will facilitate earlier settlements.

In cases where settlement does not occur, trials will be shorter and more focused. Trial dates will be fixed and will not be easily changed.

The primary goal for Case Management is to eliminate the delays presently encountered in the administration of justice between the various stages of a proceeding. Costs will be reduced and urgent matters will receive quick, judicial attention.

How will Case Management Benefit me?

Case Management is a positive initiative of the bar and fully supported by the judiciary and the Government of Ontario. It is designed to facilitate the early and prompt resolution or disposition of a case.

If your case is selected for Case Management, pursuing legal action will be more of a possibility because of the elimination of delays and the anticipated reduction of costs.

Litigants whose cases are randomly chosen to be case managed will receive a timetable which will be strictly enforced.

In family law, cases have to be completed within eight months and in child protection cases within 4 months. All steps imposed by the timetable must be completed within a time frame which starts on the day of the commencement of action. The deadlines on the timetable must be complied with. You will know that your case is being case managed because there will be a warning issued from the Court.

In civil law, cases are treated differently depending on their complexity. If the case is relatively simple, it will be heard within six months of being commenced. If it is of medium complexity, it will be completed within one year to 18 months of commencement. Very complex cases can be treated differently but only by Court order. In these situations, the timetable is set with the supervision of a Judge. For very complex cases involving multiple actions or multiple parties, the completion will depend on each case.

There can be very prejudicial results to you if either you or your lawyer do not follow the timetable. Lawyers may get extensions to timetable dates, but only after establishing a sufficiently good reason to the Case Management Judge.

Case Management is anticipated to be a very positive development for the public. It will mean speedier justice at less cost.

APPENDIX D

Toronto Family Law Case Management Rules

O. Reg. 704/91
in force December 2, 1991
Amended O. Reg. 744/92; O. Reg. 764/93

TORONTO FAMILY CASE MANAGEMENT RULES

**RULE 1—APPLICATION AND INTERPRETATION
OF RULES**

FAMILY CASE MANAGEMENT RULES

Scope

1.01(1) These rules apply to actions in the Ontario Court (General Division) and applications in the Ontario Court (Provincial Division) that are commenced at the City of Toronto on or after the 2nd day of December, 1991, are randomly assigned to case management and belong to the following categories:

1. Proceedings under the *Child and Family Services Act, 1984*, the *Children's Law Reform Act*, the *Divorce Act (Canada)* and the *Family Law Act, 1986*.
2. Proceedings for the interpretation, enforcement or variation of a marriage contract, cohabitation agreement, separation agreement or paternity agreement.
3. Proceedings for relief by way of constructive or resulting trust or a monetary award as compensation for unjust enrichment between persons who have cohabitated.

Uncontested divorces

(1.1) These rules do not apply to a divorce action if the originating document contains no claims other than,

- (a) a claim for divorce;
- (b) a claim for the incorporation into the judgment of the terms of a domestic contract, consent or minutes of settlement;
- (c) a claim for costs. O. Reg. 744/92, s. 2.

Ordinary rules of court

(2) The Rules of Civil Procedure or the Rules of the Ontario Court (Provincial Division), as the case may be, also apply to proceedings to which these rules apply, but these rules prevail in the event of conflict.

Time

(3) A time prescribed under these rules, the Rules of Civil Procedure or the Rules of the Ontario Court (Provincial Division) may be extended only by order of the case management judge.

Time where reconciliation attempted

(4) Despite subrule (3), where the parties to a proceeding under the *Divorce Act (Canada)* or the *Family Law Act, 1986* file a notice (Form 1) signed by the parties personally and their counsel stating that the parties are attempting reconciliation,

- (a) the times prescribed under these rules are suspended for the period specified in the notice, not exceeding ninety days; and
- (b) the registrar shall schedule a case conference for a date immediately after

the expiry of the period specified in the notice, or earlier at the request of a party.

Format of documents

(5) The forms prescribed in these rules and notices and orders referred to in these rules may be single spaced, may bear the short title of the proceeding and need not have a backsheet.

Registrar's notices

(6) Notices sent by the registrar under these rules may be printed on coloured paper.

PURPOSE

1.02 The purpose of these rules is to establish a case management system that reduces unnecessary cost and delay in family litigation, facilitates early and fair settlements and brings proceedings expeditiously to a just determination while allowing sufficient time for the conduct of the proceeding.

DEFINITIONS

1.03 In these rules,

"applicant" includes a petitioner or plaintiff;

"case management judge" means the judge assigned to manage a proceeding under subrule 2.02(1) or 3.01(2) or clause 3.01(6)(c);

"defence" includes an answer;

"originating document" means an application in the Ontario Court (Provincial Division), petition, statement of claim, notice of action, counterclaim, counterpetition, crossclaim or third or subsequent party claim;

"registrar" means a registrar or clerk of the court;

"respondent" includes a defendant;

"rules of court" means the Rules of Civil Procedure or the Rules of the Ontario Court (Provincial Division), as the case may be.

MATTERS NOT PROVIDED FOR

1.04 If matters are not provided for in these rules, the practice shall be determined by analogy to them.

RULE 2—GENERAL PROCEDURE

COMMENCEMENT OF PROCEEDING

Application of rule

2.01(1) Despite subrule 1.01(1), subrules (2) and (3) apply to every proceeding commenced in the Ontario Court (General Division) and the Ontario Court (Provincial Division) at the City of Toronto on or after the 2nd day of December, 1991, regardless of whether the proceeding is assigned to case management.

Case information statement

(2) On filing an application in the Ontario Court (Provincial Division), or a petition, statement of claim or notice of action in the Ontario Court (General Division), the applicant shall file in duplicate a case information statement (Form 2 or 3).

Case information statement mandatory

(3) The registrar shall not accept an originating document referred to in subrule (2) without the case information statement.

ASSIGNMENT OF PROCEEDINGS TO CASE MANAGEMENT

Randomly assigned

2.02(1) The registrar, under the supervision of the regional senior judge for the Toronto region, shall randomly assign proceedings to case management and a case management judge shall immediately be assigned to every proceeding assigned to case management.

Special file number on all documents

(2) The originating document and all documents subsequently issued, served or filed in the proceeding shall bear the designation "CM" after the court file number.

Registrar to attach warning

(3) The registrar shall attach a warning (Form 4) printed on coloured paper to the originating document when it is issued and shall give the applicant a copy of the warning for service on each respondent.

TIMETABLE

Prepared by registrar

2.03(1) On the commencement of a proceeding by an application in the Ontario Court (Provincial Division), a petition, statement of claim or notice of action, the registrar shall give the applicant a timetable that identifies the case management judge and sets maximum times for the proceeding in accordance with Schedule A and the latest date by which each step taken in the proceeding shall be completed.

Given to client

(2) The applicant's solicitor shall give a copy of the timetable forthwith to his or her client.

Service

(3) The case information statement, the timetable, the warning and the originating document shall be served together.

FAILURE TO COMPLY WITH THE TIMETABLE

Powers of case management judge

2.04(1) Where a party fails to comply with a timetable, the case management judge may,

- (a) convene a case conference;
- (b) amend the timetable and order the party to comply with the amended timetable;
- (c) strike out any document filed by the party;
- (d) dismiss the party's proceeding or strike out the party's defence;
- (e) order the party or his or her solicitor to pay costs, including solicitor and client costs fixed any payable forthwith; and
- (f) make any other order that is just.

Late filings generally not accepted

(2) The registrar shall not accept a document for filing after the expiry of a time prescribed under these rules, the rules of court or an order, except by direction of the case management judge.

Late filing of proof of service

(3) Despite subrule (2), proof of service of an originating document may be filed at any time before entry of an order under clause 2.05(1)(b) dismissing the proceeding, except that where the time for filing proof of service has been extended by order, proof of service may be filed after the time prescribed in the order only by direction of the case management judge.

DISMISSAL BY REGISTRAR—NO PROOF OF SERVICE OF ORIGINATING DOCUMENT

Automatic after notice

2.05(1) If the applicant does not file proof of service of the originating document and the respondent does not file a defence, within thirty days after commencement of the proceeding or any longer time permitted by the case management judge's order, the registrar shall,

- (a) notify the applicant that, ten days after service of the notice on the applicant, the proceeding will be dismissed by the registrar unless the case management judge orders otherwise; and
- (b) make an order dismissing the proceeding after the expiry of the time referred to in clause (a), unless the case management judge orders otherwise, and serve the order on the applicant.

Exception for protection and adoption cases

(2) Subrule (1) does not apply to a proceeding under the *Child and Family Services Act*, 1984.

DEFAULT JUDGMENT PROCEDURE

Registrar to note default automatically

2.06(1) Where proof of service of the originating document is filed and the respondent fails to file a defence within the time for defence prescribed under these rules or any longer time permitted by the case management judge's order, the registrar shall, ten days after the expiry of the time for defence, automatically and without further notice to the respondent, note the respondent in default and serve notice on the applicant that the respondent has been noted in default.

Plaintiff may note default

(2) Subrule (1) does not prevent an applicant from noting a respondent in default if the respondent does not serve and file a defence within the time for defence prescribed in these rules.

Applicant in divorce action may note default under rules of court

(2.1) Subrule (1) does not prevent an applicant in a divorce action from noting a respondent in default for failing to serve and file a defence within the time for defence prescribed in the rules of court. O. Reg. 744/92, s. 3.

More than one respondent

(3) Where there is more than one respondent, the ten days referred to in subrule (1) run from the expiry of the latest time for defence by any of the respondents.

Exemption for protection and adoption cases

(4) Subrules (1), (2) and (3) do not apply to a proceeding under the *Child and Family Services Act, 1984*.

DISMISSAL BY REGISTRAR—FAILURE TO OBTAIN A JUDGMENT

2.07 Where the applicant does not obtain default judgment from the registrar, move for judgment against the respondent in default or request a hearing within thirty days after service of the notice that a respondent had been noted in default, the registrar shall, unless the case management judge orders otherwise, make an order dismissing the proceeding against that respondent and serve the order on the applicant.

DEFENCE OF PROCEEDING

Case information statement with defence

2.08(1) On filing a defence the respondent shall file a case information statement (Form 2 or 3).

Refusal to accept defence

(2) The registrar shall not accept a defence without the case information statement.

Service

(3) The case information statement and defence shall be served together.

Exception for protection and adoption cases

(4) Subrules (1), (2) and (3) do not apply to a proceeding under the *Child and Family Services Act, 1984*.

Notice of intent to defend prohibited

(5) A notice of intent to defend shall not be used.

ASSIGNMENT OF RELATED PROCEEDINGS TO CASE MANAGEMENT

Claims by respondent

2.09(1) A counterclaim, counterpetition, claim by respondent, crossclaim or third or subsequent party claim becomes subject to these rules only if the main proceeding has been assigned to case management.

Extension of time

(2) A reply, counterclaim, counterpetition, claim by respondent, crossclaim or third or subsequent party claim extends the times prescribed in these rules for the main proceeding by the time specifically provided in the rules of court for the reply or for defence and reply in the counterclaim, counterpetition, claim by respondent, crossclaim or third or subsequent party claim, or by twenty days, whichever is longer.

Consolidation or hearing together

(3) Where the court orders, under the rules of court, that a proceeding to which these rules apply,

- (a) be consolidated with another proceeding, these rules apply to the consolidated proceeding; or
- (b) be heard at the same time as or immediately before or after another proceeding, the case management judge may order that these rules apply to the other proceeding.

Service of case management documents

(4) Where a proceeding becomes subject to these rules under subrule (1) or (3), the applicant in the proceeding originally subject to these rules shall serve forthwith, on every party to the other proceeding who is not also a party to the original proceeding, the case information statements, timetable and warning.

RULE 3—CASE MANAGEMENT JUDGE AND CASE CONFERENCE

CASE MANAGEMENT JUDGE

Duties

3.01(1) The case management judge shall deal with all matters that arise in the proceeding before the hearing, including all motions, case conferences and settlement conferences.

Substitution

(2) A substitute case management judge may be assigned to a proceeding at any time.

Informal motion procedure

(3) A motion may be made to the case management judge, depending on the practical requirements of the situation,

- (a) with or without supporting material or a motion record;
- (b) by attendance, conference call, telephone call or telephone transmission, or in writing; and
- (c) in the absence of the public, if the case management judge is of the opinion that it is impractical to have the motion heard in public.

Motion without material

(4) Where a motion is made without supporting material or a motion record,

- (a) a case management motion form (Form 5) signed by the moving party's solicitor shall be submitted to the case management judge before the motion is heard;
- (b) a case management motion form signed by the responding party's solicitor may be submitted to the case management judge before the motion is heard;
- (c) the case management judge shall record the disposition of the motion on the form;
- (d) the registrar shall send a copy of the disposition of the motion to the parties unless the case management judge directs that a copy need not be sent; and
- (e) no formal order need be prepared, signed or entered unless the case management judge directs it.

Powers on own initiative

(5) The case management judge may, on his or her own initiative, require a hearing, case conference or conference call to deal with any matter arising in connection with case management, including a failure to comply with these rules or the rules of court.

Powers generally

(6) The case management judge may,

- (a) extend or abridge a time prescribed under an order, these rules or the rules of court;
- (b) adjourn a case conference;
- (c) delegate his or her authority to another judge;
- (d) set aside an order made by the registrar under these rules;
- (e) direct a reference under the rules of court; and
- (f) make orders, impose terms and give directions as necessary to carry out the purpose of these rules.

Motion for leave to appeal

(7) Despite subrule (1), a motion for leave to appeal from an order of the case management judge shall be made to another judge.

Not to preside at hearing

(8) The case management judge shall not preside at the hearing of the proceeding.

CASE CONFERENCE

Scheduled on commencement of proceeding

3.02(1) On issuing an application in the Ontario Court (Provincial Division), a petition, statement of claim or notice of action, the registrar shall schedule a case conference in accordance with Schedule A and shall include the date of the conference in the timetable for the proceeding.

Parties to attend personally

(2) All counsel and all parties shall attend the conference personally.

Duties of judge

(3) At the conference the case management judge shall,

- (a) identify the issues, and note those that are contested and those that are not contested;
- (b) explore methods to resolve the contested issues;
- (c) if possible, secure the parties' agreement on a specific schedule of events in the proceeding within the times listed in Schedule A; and
- (d) review and, if necessary, amend the timetable for the proceeding.

Counsel

(4) Counsel attending the conference shall be the counsel who will appear at the hearing, shall have authority to deal with the matters referred to in subrule (3) and shall be fully acquainted with the facts and legal issues.

Powers of judge

- (5) At the conference the case management judge may, where appropriate,
- (a) make a procedural order;
 - (b) make an order for interim relief;
 - (c) on consent of the parties, refer any issue for alternative dispute resolution;
 - (d) convene a settlement conference;
 - (e) convene a hearing; and
 - (f) give directions.

Subsequent conferences

(6) Subsequent conferences may be convened on the case management judge's initiative or at the request of a party.

Amending timetable

(7) A party seeking to amend the timetable for the proceeding at a case conference shall notify the other parties of the proposed amendment and the reason for it before requesting the conference, and where the other parties consent to the proposed amendment, the consent shall be filed.

RULE 4—STEPS BEFORE HEARING

SETTLEMENT CONFERENCE

Settlement conference brief

4.01(1) The applicant, or any other party by direction of the case management judge or by agreement of the parties, shall deliver not later than ten days before the settlement conference a settlement conference brief, which may be in the form of a record for the hearing, containing all pleadings and all other material the applicant considers necessary for the settlement conference.

Other parties to deliver briefs

(2) Every other party shall deliver a settlement conference brief containing any other material the party considers necessary for the settlement conference not later than five days before the conference.

Expert reports

(3) A party's settlement conference brief shall also contain a copy of all expert reports intended for use at the hearing and, in the case of an expert who has not yet provided a report, a summary of the evidence that the expert is expected to give at the hearing.

Expert reports not disclosed

(4) An expert report that was not served or in respect of which a summary of evidence was not provided at the settlement conference may be introduced at the hearing only with permission of the presiding judge, on any terms he or she considers appropriate, and the judge shall give permission to introduce the report unless prejudice will result that cannot be compensated for by costs or an adjournment.

Settlement conference is pre-trial conference

(5) A settlement conference under these rules is a pre-trial conference under Rule 50 of the Rules of Civil Procedure.

PREPARATION FOR HEARING

Completion before settlement conference

4.02(1) All forms of discovery and disclosure before a hearing required or permitted by the rules of court shall be completed before the settlement conference, and a party may not require further discovery or disclosure without an order.

Record for hearing

(2) The applicant, or any other party by direction of the case management judge or by agreement of the parties, shall deliver any record required by the rules of court for the hearing not later than fifteen days before the hearing date.

Other party may deliver record

(3) If the hearing record is not delivered within the time prescribed by subrule (2), any other party may deliver the hearing record not later than ten days before the hearing date.

Listing for hearing

(4) The registrar shall place the proceeding on the appropriate hearing list when any record required by the rules of court is delivered and shall notify the case management judge if the record for the hearing is not delivered at least ten days before the hearing date.

No motions after settlement conference

(5) No motion may be made after a settlement conference except with the permission of the case management judge.

RULE 5—FAMILY CASE MANAGEMENT ADVISORY COMMITTEE

FAMILY CASE MANAGEMENT ADVISORY COMMITTEE

Establishment

5.01(1) There shall be a Family Case Management Advisory Committee to monitor the operation of these rules and to recommend to the appropriate authorities, including the Family Rules Committee, changes in policies and procedures necessary to facilitate case management.

Composition

(2) The committee shall consist of,

- (a) two judges of the Ontario Court (General Division), chosen by the court's regional senior judge for the Toronto region;
- (b) two judges of the Ontario Court (Provincial Division), chosen by the court's regional senior judge for the Toronto region;
- (c) two persons chosen by the Advocates' Society;
- (d) two persons chosen by the Canadian Bar Association—Ontario;
- (e) two persons chosen by the County of York Law Association; and

-
- (f) two persons employed in the administration of the courts, chosen by the Regional Director of Courts Administration for the Toronto region.

RULE 6—CITATION, COMMENCEMENT AND REVOCATION

SHORT TITLE

6.01 These rules may be cited as the Toronto Family Case Management Rules.

COMMENCEMENT AND REVOCATION

6.02(1) These rules come into force on the 2nd day of December, 1991.

(2) These rules are revoked on November 30, 1994, O. Reg. 764/93, s. 1.

Schedule A

NOTE: The time periods for steps in a proceeding are cumulative and are counted from the commencement of the proceeding.

1. All proceedings except those under the *Child and Family Services Act, 1984*.

<i>Step in the proceeding</i>	<i>To be completed within not more than</i>
Service and filing proof of service of originating document	30 days
Filing of defence	70 days
Case conference	80 days
Settlement conference (by which time all discovery and assessments are to be complete)	170 days
Hearing	230 days

2. Proceedings under the *Child and Family Services Act, 1984*.

<i>Step in the proceeding</i>	<i>To be completed within not more than</i>
First hearing after apprehension of child	5 days
Temporary care and custody hearing, including appointment of counsel	25 days
Case conference	35 days
Settlement conference	80 days
Hearing	120 days

Form 1

No.....CM

ONTARIO COURT (DIVISION)

(Short title)

NOTICE OF ATTEMPT TO RECONCILE

TO THE REGISTRAR

The persons involved in this case are attempting to reconcile. For that purpose, the persons in the case agree that the time periods prescribed under the Toronto Family Case Management Rules for this proceeding, including those set out in the timetable, should be extended for a period of (*maximum 90*)days.

The persons in the case understand that at the expiry of that period, or earlier if requested by either person, the registrar will schedule a case conference.

.....
Applicant/petitioner/plaintiff

.....
Respondent/defendant

.....
Counsel

.....
Counsel

Date

Date

Form 2

ONTARIO COURT (_____ DIVISION)

No. _____

(court office 800/933)

SHORT TITLE OF CASE _____

CASE INFORMATION STATEMENT

THIS FORM FILED BY

☐ applicant/petitioner/plaintiff
☐ respondent/defendant - give name _____

☐ other - specify kind of party and give name _____

ORDER SOUGHT BY PERSON FILING THIS FORM

Divorce Act	Family Law Act	Children's Law Ref. Act	Other
<input type="checkbox"/> divorce	<input type="checkbox"/> child support	<input type="checkbox"/> custody	<input type="checkbox"/> constructive/resulting trust
<input type="checkbox"/> child support	<input type="checkbox"/> spousal support	<input type="checkbox"/> access	<input type="checkbox"/> partition/sale
<input type="checkbox"/> spousal support	<input type="checkbox"/> property - equalize	<input type="checkbox"/> paternity declaration	<input type="checkbox"/> annulment
<input type="checkbox"/> custody	<input type="checkbox"/> excl. possession	<input type="checkbox"/> other - specify _____	<input type="checkbox"/> other - specify _____
<input type="checkbox"/> access	<input type="checkbox"/> restraining order		
<input type="checkbox"/> other - specify _____	<input type="checkbox"/> other - specify _____		

PROPERTY CASES ONLY - KIND OF PROPERTY INVOLVED

<input type="checkbox"/> house	<input type="checkbox"/> cottage	<input type="checkbox"/> pension	<input type="checkbox"/> stocks/bonds
<input type="checkbox"/> condo/co-op unit	<input type="checkbox"/> furniture/contents	<input type="checkbox"/> RRSP	<input type="checkbox"/> business

PERSON FILING THIS FORM

<input type="checkbox"/> Married - date _____	Separated - date _____
<input type="checkbox"/> Not married - cohabited from _____	Separated - date _____

Birth date _____	Social insurance no. _____
Employer - name and address _____	

OTHER SPOUSE

Birth date _____	Social insurance no. _____
Employer - name and address _____	

CHILDREN	Name and birth date _____	Name and birth date _____
----------	---------------------------	---------------------------

THIS PERSON'S LAWYER (If no lawyer, give person's name, address for service, telephone and fax numbers)

Name and firm _____

Address _____

Telephone _____ Fax _____ Date _____

Form 3

ONTARIO COURT (PROVINCIAL DIVISION)

No.

311 Jarvis Street, Toronto, Ontario M5B 2C4

SHORT TITLE OF CASE

CASE INFORMATION STATEMENT - CHILD AND FAMILY SERVICES ACT CASES

THIS FORM FILLED BY

☐ children's aid society

☐ other - specify kind of party and give name

☐ child - give name

☐ parent - give name

NATURE OF CASE

☐ protection

☐ other - specify

☐ status review

☐ access

☐ adoption

ORDER SOUGHT BY PERSON FILING THIS FORM

☐ protection finding

☐ termination

☐ supervision order

☐ adoption

☐ society wardship

☐ other - specify

☐ crown wardship

☐ access

BIOLOGICAL PARENTS

Mother's

full name

Birth date

Father's

full name

Birth date

OTHER PARENTS AS DEFINED IN CFSA

Name and birth date

Name and birth date

CHILDREN

Name and birth date

Name and birth date

THIS PERSON'S LAWYER (If no lawyer, give person's name, address for service, telephone and fax numbers)

Name and firm

Address

Telephone

Fax

Date

Form 4

ONTARIO COURT (DIVISION)
Toronto Case Management Project

WARNING

**THIS CASE HAS BEEN SELECTED FOR CASE MANAGEMENT BY THE COURT.
TIME LIMITS WILL BE STRICTLY ENFORCED.**

The time limits for your case are those set out in the timetable served with this form,
NOT THOSE IN THE STATEMENT OF CLAIM/NOTICE OF ACTION/PETITION/NOTICE OF HEARING.

You should take these documents to your lawyer immediately. If you cannot afford a lawyer, you should take these documents immediately to your nearest Legal Aid office and apply for legal aid. If you wish, you can defend this case by yourself with a lawyer.

**IF YOU MISS THE DEADLINE FOR FILING A DEFENCE SET OUT IN THE
TIMETABLE, THE COURT COULD GRANT JUDGMENT AND THE JUDGMENT
COULD BE ENFORCED AGAINST YOU.**

Form 5

FAMILY CASE MANAGEMENT MOTION FORM

(to be filed on ALL case managed motions)

ONTARIO COURT (DIVISION)
Toronto Family Case Management Project

Court file no
Court tax no

CM

SHORT TITLE OF CASE

THIS FORM FILED BY (Check appropriate boxes to identify the party filing this form as a moving/responding party on this motion AND to identify this party as plaintiff, defendant, etc. in the action)

<input type="checkbox"/> moving party	<input type="checkbox"/> plaintiff/petitioner/applicant
<input type="checkbox"/> responding party	<input type="checkbox"/> defendant/respondent name
	other (specify kind of party and name)

MOTION MADE

<input type="checkbox"/> on consent of all parties	<input type="checkbox"/> on notice to all parties and unopposed **
<input type="checkbox"/> without notice	<input type="checkbox"/> on notice to all parties and expected to be opposed **

(** Filing fee required in General Division only)

Notice of this motion
was served on (date)

by means of

METHOD OF HEARING REQUESTED

<input type="checkbox"/> in writing only, no appearance	<input type="checkbox"/> conference telephone call see below
<input type="checkbox"/> telephone call (motion without notice) see below	<input type="checkbox"/> appearance see below

Date, time and place* for conference call, telephone call or appearance (Must be confirmed with Case Management Office at 327- in advance)

(date) (time) (place)

ORDER SOUGHT BY THIS PARTY (Responding party is presumed to request dismissal of motion and costs)

☐ Extension of time (specify what time period and how long an extension)

☐ Other relief - (be specific)

MATERIAL RELIED ON BY THIS PARTY

☐ this form ☐ pleadings ☐ affidavits specify ☐ transcript specify ☐ other specify

GROUND(S) IN SUPPORT OF/IN OPPOSITION TO MOTION (INCLUDING RULE AND STATUTORY PROVISIONS RELIED ON)

(See over)

* For Court tax fee and place of motion: See paragraph 4.1 of the Rules of Family Case Management.

Form 5—Continued

FAMILY CASE MANAGEMENT MOTION FORM, page 2

Court file no.:

CM

(INSERT SHORT TITLE OF CASE)

CERTIFICATION BY SOLICITOR

I certify that the above information is correct, to the best of my knowledge
Signature of solicitor (If no lawyer, party must sign)

Date

THIS PARTY'S LAWYER

(If the respondent is a party, insert the name of the respondent's lawyer, if any, and the respondent's address.)

Name and firm

Address

Telephone

Fax

OTHER LAWYER

(If the respondent is a party, insert the name of the respondent's lawyer, if any, and the respondent's address.)

Name and firm

Address

Telephone

Fax

OTHER LAWYER

(If the respondent is a party, insert the name of the respondent's lawyer, if any, and the respondent's address.)

Name and firm

Address

Telephone

Fax

OTHER LAWYER

(If the respondent is a party, insert the name of the respondent's lawyer, if any, and the respondent's address.)

Name and firm

Address

Telephone

Fax

DISPOSITION BY CASE MANAGEMENT JUDGE

- | | |
|---|--|
| <input type="checkbox"/> order to go as asked | <input type="checkbox"/> adjourned to |
| <input type="checkbox"/> order refused | <input type="checkbox"/> timetable to be amended |
| <input type="checkbox"/> held in abeyance | <input type="checkbox"/> order to go as follows |

Hearing method

Hearing duration

min

Heard in ☐ courtroom ☐ office

- ☐ Successful party MUST prepare formal order for signature
☐ No copy of disposition to be sent to parties
☐ Other directions specify

Date

Judge's
name

Judge's
signature

APPENDIX E

Essex Civil Case Management Rules

REGULATION MADE UNDER THE COURTS OF JUSTICE ACT

R.R.O. 1990, Reg. 189

Amended O.Reg. 397/91; O. Reg. 537/92; O. Reg. 211/93; O. Reg. 763/93.

ESSEX CIVIL CASE MANAGEMENT RULES

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Rule 9	Fast lien track
Rule 10	Complex track
Rule 11	Transfers from one track to another
Rule 12	Counterclaims, crossclaims and third party claims
Rule 13	Family variation applications
Rule 14	Actions commenced before January 1, 1985
Rule 15	Actions commenced on or after January 1, 1985 and before September 4, 1990
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Form 1	Case information statement
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Form 3	Case management order (standard track)
Form 4	Case management order (family track)
Form 5	Case management order (fast lien track)
Form 6	Case management order (complex track)
Form 7	Case management order (family variation track)

SCOPE

1.—(1) These rules apply to proceedings commenced in the County of Essex.

Exception, applications

(2) Except as provided in subrule 13 (1) (family variation track), these rules do not apply to applications, even if they are to be treated as actions under subrule 38.10 (2) or (3) of the Rules of Civil Procedure. O. Reg. 443/90, r. 1.

RULES OF CIVIL PROCEDURE

2. The Rules of Civil Procedure also apply to proceedings to which these rules apply, but these rules prevail in the event of conflict. O. Reg. 443/90, r. 2.

INTERPRETATION

3.—(1) These rules shall be liberally interpreted to secure the just, most expeditious and least expensive determination, on the merits, of proceedings to which they apply.

Matters not provided for

(2) If matters are not provided for in these rules, the practice shall be determined by

Dispensing with compliance

(3) The court may dispense with compliance with any provision of these rules if it is just and necessary to do so. O. Reg. 443/90, r. 3.

TIME

3.1—(1) The court may by order extend or abridge any time prescribed by these rules or an order, on such terms as are just.

(2) A motion for an order extending time may be made before or after the expiration of the time prescribed. O. Reg. 397/91, s. 2.

DEFINITIONS

4. In these rules,

“Day 1” means the day on which a proceeding is commenced;

“defendant” includes the respondent in a divorce action;

“plaintiff” includes the petitioner in a divorce action. O. Reg. 443/90, r. 4.

ACTIONS COMMENCED ON OR AFTER SEPTEMBER 4, 1990

CASE INFORMATION STATEMENT

5.—(1) When a divorce petition, statement of claim or notice of action is issued on or after the 4th day of September, 1990, the plaintiff shall file a case information statement (Form 1) selecting,

- (a) the family track, in the case of an action under the *Divorce Act* (Canada), the *Family Law Act* or the *Children's Law Reform Act*, an action respecting a domestic contract, or an action in constructive trust between spouses or persons who have cohabited;
- (b) the fast lien track, in the case of a construction lien action; or
- (c) the fast track or the standard track, in the case of any other action.

Case management order

(2) When the plaintiff files the case information statement, the court shall make a case management order in Form 2 (fast track), Form 3 (standard track), Form 4 (family track) or Form 5 (fast lien track). O. Reg. 443/90, r. 5.

FAST TRACK

6. The following provisions apply to an action on the fast track:

Statement of claim

- 1. The plaintiff shall serve the statement of claim, together with the plaintiff's affidavit of documents, the case information statement and the case management order, within thirty days after Day 1, and file them with proof of service within forty days after Day 1. However, proof of service is not required with respect to a defendant who files a statement of defence within forty-four days after Day 1. Copies of the documents referred to in Schedule A of the plaintiff's affidavit of documents shall be served with the statement of claim and other documents, but shall not be filed. O. Reg. 211/93, s. 2.

Default

- 2. If the plaintiff does not comply with paragraph 1 and remains in default on the forty-fifth day after Day 1, the registrar shall immediately serve on the plaintiff a notice that the action will be dismissed against each defendant with respect to whom the plaintiff is in default if the default is not cured within fifteen days after service of the notice. If the plaintiff does not cure the default within that

time, the registrar shall dismiss the action against each defendant with respect to whom the plaintiff is in default. O. Reg. 211/93, s. 2.

Statement of defence

3. The defendant shall serve the statement of defence, together with the defendant's affidavit of documents, within thirty days after the date of service of the statement of claim, and shall file them with proof of service within forty days after that date. Copies of the documents referred to in Schedule A of the defendant's affidavit of documents shall be served with the statement of defence and affidavit of documents, but shall not be filed.

Default

4. On the forty-fifth day after the date of service of the statement of claim, the registrar shall note in default a defendant who has not yet complied with paragraph 3.

Service outside Ontario

5. If the defendant is served with the statement of claim outside Ontario, the periods for serving and filing the statement of defence are extended (by twenty days, in the case of service elsewhere in Canada or in the United States, or by forty days, in the case of service anywhere else) and the other time periods applicable to the action shall be adjusted accordingly.

Notice of action, notice of intent to defend

6. The time periods applicable to the action are not extended if a notice of action or notice of intent to defend is used.

Reply

7. The reply, if any, shall be delivered within ten days after delivery of the statement of defence. No reply shall be delivered after that time without leave of the court.

Leave for motions

8. No motion may be made without leave, except a motion referred to in paragraph 11 (examinations for discovery) or subrule 11 (2) (timely transfers).

Refusal of leave

9. If leave for a motion is refused, the moving party shall, unless the court orders otherwise, pay costs in an amount determined in accordance with paragraph 10, immediately and regardless of the outcome of the proceeding.

Costs

10. When a party is required to pay costs under paragraph 9, every opposing party who is separately represented by counsel is entitled to costs in the amount of \$200. Two or more opposing parties who are represented by the same counsel are jointly entitled to costs in that amount.

Examinations for discovery

11. No party may conduct examinations for discovery lasting more than three hours in total without leave. The motion for leave may itself be made without leave.

Notices of readiness

12. It is not necessary to serve notices of readiness for trial.

Listing for trial

13. The plaintiff shall serve and file the record and list the action for trial within forty-five days after the close of pleadings, failing which the registrar shall immediately serve on the plaintiff a notice that the action will be dismissed if the default is not cured within fifteen days after service of the notice. If the plaintiff does not cure the default within that time, the registrar shall dismiss the action, with costs payable by the plaintiff to all defendants who have delivered a defence.

Date and time of pre-trial conference, fast track list

14. As soon as the action is listed for trial, the registrar shall place it on the fast track list, fix the date and time for the pre-trial conference and fix a date by which all parties shall file pre-trial conference briefs. The date fixed for filing pre-trial conference briefs shall be at least fourteen days before the day fixed for the pre-trial conference.

Failure to file pre-trial conference brief

15. If a party does not file a pre-trial conference brief by the date fixed by the registrar, the registrar shall, unless the court orders otherwise, make an order requiring the party to pay costs in an amount determined in accordance with paragraph 16, immediately and regardless of the outcome of the proceeding, and fixing a date on which the party shall appear with counsel to explain the default to the court.

Costs

16. When a party is required to pay costs under paragraph 15, every opposing party who is separately represented by counsel is entitled to costs in the amount of \$300. Two or more opposing parties who are represented by the same counsel are jointly entitled to costs in that amount.

No further examinations for discovery without leave

17. After the date fixed for the pre-trial conference, no party may examine for discovery without leave.

Pre-trial conference

18. All parties, as well as counsel, shall attend the pre-trial conference, unless an order excusing a party is made before the date fixed for the pre-trial conference.

Trial date

19. At the pre-trial conference, the judge shall fix a trial date.

Trial

20. The trial shall begin within six months after Day 1. O. Reg. 443/90, r. 6.

STANDARD TRACK

7. The following provisions apply to an action on the standard track:

Statement of claim

1. The plaintiff shall serve the statement of claim, together with the case information statement and the case management order, within sixty days after Day 1, and file them with proof of service within seventy days after Day 1. However, proof of service is not required with respect to a defendant who files a statement of defence within seventy-four days after Day 1. O. Regs. 397/91, s. 3; 211/93, s. 3.

Default

2. If the plaintiff does not comply with paragraph 1 and remains in default on the seventy-fifth day after Day 1, the registrar shall immediately serve on the plaintiff a notice that the action will be dismissed against each defendant with respect to whom the plaintiff is in default if the default is not cured within fifteen days after service of the notice. If the plaintiff does not cure the default within that time, the registrar shall dismiss the action against each defendant with respect to whom the plaintiff is in default. O. Regs. 397/91, s. 3; 211/93, s. 3.

Statement of defence

3. The defendant shall serve the statement of defence within sixty days after the date of service of the statement of claim and shall file it with proof of service within seventy days after that date. O. Reg. 397/91, s. 3(3).

Default

4. On the seventy-fifth day after the date of service of the statement of claim, the registrar shall note in default a defendant who has not yet complied with paragraph 3. O. Reg. 397/91, s. 3(4).

Service outside Ontario

5. If the defendant is served with the statement of claim outside Ontario, the periods for serving and filing the statement of defence are extended (by twenty days, in the case of service elsewhere in Canada or in the United States, or by forty days, in the case of service anywhere else) and the other time periods applicable to the action shall be adjusted accordingly.

Notice of action, notice of intent to defend

6. The time periods applicable to the action are not extended if a notice of action or notice of intent to defend is used.

Reply

7. The reply, if any, shall be delivered within ten days after delivery of the statement of defence. No reply shall be delivered after that time without leave of the court.

Notices of readiness

8. It is not necessary to serve notices of readiness for trial.

Listing for trial

9. The plaintiff shall serve and file the record and list the action for trial within seventy-five days after the close of pleadings, failing which the registrar shall immediately serve on the plaintiff a notice that the action will be dismissed if the default is not cured within fifteen days after service of the notice. If the plaintiff does not cure the default within that time, the registrar shall dismiss the action, with costs payable by the plaintiff to all defendants who have delivered a defence.

Date and time of pre-trial conference, standard track list

10. As soon as the action is listed for trial, the registrar shall place it on the standard track list, fix the date and time for the pre-trial conference and fix a date by which all parties shall file pre-trial conference briefs. The date fixed for the pre-trial conference shall be at least eight months after the day the action is listed for trial (unless an earlier date is available and the parties consent), and the date fixed for filing pre-trial conference briefs shall be at least ten days before the day fixed for the pre-trial conference. O. Reg. 397/91, s. 3(5).

Failure to file pre-trial conference brief

11. If a party does not file a pre-trial conference brief by the date fixed by the registrar, the registrar shall, unless the court orders otherwise, make an order requiring the party to pay costs in an amount determined in accordance with paragraph 12, immediately and regardless of the outcome of the proceeding, and fixing a date on which the party shall appear with counsel to explain the default to the court.

Costs

12. When a party is required to pay costs under paragraph 11, every opposing party who is separately represented by counsel is entitled to costs in the amount of \$300. Two or more opposing parties who are represented by the same counsel are jointly entitled to costs in that amount.

No further examinations for discovery or motions without leave

13. After the date fixed for the pre-trial conference, no party may examine for discovery or make a motion without leave.

Refusal of leave

14. If leave for a motion requiring leave is refused, the moving party shall, unless the court orders otherwise, pay costs in an amount determined in accordance with paragraph 15, immediately and regardless of the outcome of the proceeding.

Costs

15. When a party is required to pay costs under paragraph 14, every opposing party who is separately represented by counsel is entitled to costs in the amount of \$200. Two or more opposing parties who are represented by the same counsel are jointly entitled to costs in that amount.

Pre-trial conference

16. All parties, as well as counsel, shall attend the pre-trial conference, unless an order excusing a party is made before the date fixed for the pre-trial conference.

Trial date

17. At the pre-trial conference, the judge shall fix a trial date, which shall be at least thirty days after the pre-trial conference.

Trial

18. The trial shall begin within eighteen months after Day 1. O. Reg. 443/90, r. 7.

FAMILY TRACK

8. The following provisions apply to an action on the family track:

Petition or statement of claim

1. The plaintiff shall serve the petition or statement of claim, together with the financial statement if required, the case information statement and the case management order, within thirty days after Day 1, and file them with proof of service within forty days after Day 1. However, proof of service is not required with respect to a defendant who files an answer or statement of defence within forty-four days after Day 1. O. Reg. 211/93, s. 4.

Default

2. If the plaintiff does not comply with paragraph 1 and remains in default on the

forty-fifth day after Day 1, the registrar shall immediately serve on the plaintiff a notice that the action will be dismissed against each defendant with respect to whom the plaintiff is in default if the default is not cured within fifteen days after service of the notice. If the plaintiff does not cure the default within that time, the registrar shall dismiss the action against each defendant with respect to whom the plaintiff is in default. O. Reg. 211/93, s. 4.

Answer or statement of defence

3. The defendant shall serve the answer or statement of defence, together with the financial statement if required, within thirty days after the date of service of the petition or statement of claim, and shall file them with proof of service within forty days after that date. O. Reg. 211/93, s. 4.

Date of management conference

4. When the defendant has complied with paragraph 3, the court shall fix a date for a management conference. The date shall be at least forty-five days but not more than seventy-five days after delivery of the answer or statement of defence. O. Reg. 211/93, s. 4.

Default

5. On the forty-fifth day after the date of service of the petition or statement of claim, the registrar shall note in default a defendant who has not yet complied with paragraph 4.

Service outside Ontario

6. If the defendant is served with the petition or statement of claim outside Ontario, the periods for serving and filing the answer or statement of defence are extended (by twenty days, in the case of service elsewhere in Canada or in the United States, or by forty days, in the case of service anywhere else) and the other time periods applicable to the action shall be adjusted accordingly.

Notice of action, notice of intent to defend

7. The time periods applicable to the action are not extended if a notice of action or notice of intent to defend is used.

Reply

8. The reply, if any, shall be delivered within twenty days after delivery of the answer or statement of defence. No reply shall be delivered after that time without leave of the court.

Notices of readiness

9. It is not necessary to serve notices of readiness for trial.

Listing for trial

10. The plaintiff shall serve and file the record and list the action for trial within forty-five days after the close of pleadings, failing which the registrar shall immediately serve on the plaintiff a notice that the action will be dismissed if the default is not cured within fifteen days after service of the notice. If the plaintiff does not cure the default within that time, the registrar shall dismiss the action, with costs payable by the plaintiff to all defendants who have delivered a defence.

Family track

11. As soon as the action is listed for trial, the registrar shall place it on the family track list.

Rescheduling management conference

12. The court may, on a party's motion, reschedule the management conference for another date. The motion does not require supporting written material. Arrangements for disposition of the motion by conference telephone call or in writing, without an appearance, may be made through the registrar's office. O. Reg. 397/91, s. 4(1).

Documents for management conference

13. At least seven days before the date of the management conference, every party shall serve on every other party and file with proof of service a one-page summary of the issues in the action, a net family property statement, if required, with copies of documents substantiating the calculations, and a list of documents still to be obtained.

Failure to file documents

14. If a party does not file the documents within the prescribed time period, the registrar shall, unless the court orders otherwise, make an order requiring the party to pay costs in an amount determined in accordance with paragraph 15, immediately and regardless of the outcome of the proceeding, and fixing a date on which the party shall appear with counsel to explain the default to the court.

Costs

15. When a party is required to pay costs under paragraph 14, 18 or 20, every opposing party who is separately represented by counsel is entitled to costs in the amount of \$300. Two or more opposing parties who are represented by the same counsel are jointly entitled to costs in that amount.

Management conference

16. All parties, as well as counsel, shall attend the management conference, unless an order excusing a party is made before the date fixed for the management conference.
17. A judge, a master or a person designated by the regional senior judge shall preside at the management conference, shall discuss with the parties the possibility of settlement and may give all necessary directions, including a direction for the immediate trial of an issue.

Failure to comply with direction

18. If a party fails to comply with a direction given at the management conference, the registrar shall, unless the court orders otherwise, make an order requiring the party to pay costs in an amount determined in accordance with paragraph 15, immediately and regardless of the outcome of the proceeding, and fixing a date on which the party shall appear with counsel to explain the default to the court.

Date and time of pre-trial conference

19. At the management conference, the person presiding shall also fix the date and time for the pre-trial conference and fix a date by which all parties shall file pre-trial conference briefs. The date fixed for filing pre-trial conference briefs shall be at least seven days before the date fixed for the pre-trial conference. O. Reg. 397/91, s. 4(2).

Failure to file pre-trial conference brief

20. If a party does not file a pre-trial conference brief by the date fixed under paragraph 19, the registrar shall, unless the court orders otherwise, make an

order requiring the party to pay costs in an amount determined in accordance with paragraph 15, immediately and regardless of the outcome of the proceeding, and fixing a date on which the party shall appear with counsel to explain the default to the court.

No further examinations for discovery or motions without leave

21. After the date fixed for the pre-trial conference, no party may examine for discovery or make a motion without leave.

Refusal of leave

22. If leave for a motion requiring leave is refused, the moving party shall, unless the court orders otherwise, pay costs in an amount determined in accordance with paragraph 23, immediately and regardless of the outcome of the proceeding.

Costs

23. When a party is required to pay costs under paragraph 22, every opposing party who is separately represented by counsel is entitled to costs in the amount of \$200. Two or more opposing parties who are represented by the same counsel are jointly entitled to costs in that amount.

Pre-trial conference

24. All parties, as well as counsel, shall attend the pre-trial conference, unless an order excusing a party is made before the date fixed for the pre-trial conference.

Who shall preside

25. The person who presided at the management conference may also preside at the pre-trial conference. O. Reg. 397/91, s. 4(3).

Trial date

26. At the pre-trial conference, the person presiding shall fix a trial date, which shall be at least thirty days after the pre-trial conference.

Trial

27. The trial shall begin within one year of Day 1. O. Reg. 443/90, r. 8.

FAST LIEN TRACK

Definition

- 9.—(1) In this rule, “Act” means the *Construction Lien Act*.

Special provisions

- (2) The following provisions apply to an action on the fast lien track:

Statement of claim

1. The plaintiff shall serve the statement of claim, together with the plaintiff's affidavit of documents, the case information statement and the case management order, within ninety days after Day 1, in accordance with subsection 53 (2) of the Act, and shall file them with proof of service within 100 days after Day 1. The documents referred to in Schedule A of the plaintiff's affidavit of documents shall include the claim for lien (as registered, if the lien attaches to the premises) and affidavit of verification, and shall be served with the statement of claim and other documents, but shall not be filed.

Default

2. If the plaintiff does not comply with paragraph 1 and remains in default on the 105th day after Day 1, the registrar shall immediately serve on the plaintiff a notice that the action will be dismissed if the default is not cured within fifteen days after service of the notice. If the plaintiff does not cure the default within that time, the registrar shall dismiss the action, with costs payable by the plaintiff to all defendants who have delivered a defence. However, unless the court orders otherwise, the registration of the claim for lien and of any certificate of action in respect of the lien shall not be vacated until ten days have elapsed after the order of dismissal is served on the plaintiff.

Statement of defence

3. The defendant shall deliver the statement of defence, together with the defendant's affidavit of documents, within twenty days after the date of service of the statement of claim, in accordance with subsection 54 (1) of the Act. Copies of the documents referred to in Schedule A of the defendant's affidavit of documents shall be served with the statement of defence and affidavit of documents, but shall not be filed.

Default

4. On the twenty-fifth day after the date of service of the statement of claim, the registrar shall note in default a defendant who has not yet complied with paragraph 3.

Motion for judgment

5. The plaintiff shall move for judgment within sixty days after the defendant is noted in default. Affidavit evidence may be received at the hearing of the motion.

Default

6. If the plaintiff does not comply with paragraph 5, the registrar shall immediately serve on the plaintiff a notice that the action will be dismissed if the default is not cured within fifteen days after service of the notice. If the plaintiff does not cure the default within that time, the registrar shall dismiss the action. However, unless the court orders otherwise, the registration of the claim for lien and of any certificate of action in respect of the lien shall not be vacated until ten days have elapsed after the order of dismissal is served on the plaintiff.

Service outside Ontario

7. If the defendant is served with the statement of claim outside Ontario, the periods for serving and filing the statement of defence are extended (by twenty days, in the case of service elsewhere in Canada or in the United States, or by forty days, in the case of service anywhere else) and the other time periods applicable to the action shall be adjusted accordingly.

Notice of action, notice of intent to defend

8. The time periods applicable to the action are not extended if a notice of action or notice of intent to defend is used.

Reply

9. The reply, if any, shall be delivered within ten days after delivery of the statement of defence. No reply shall be delivered after that time without leave of the court.

Settlement meeting obligatory

10. A settlement meeting shall be held in accordance with section 61 of the Act on a day chosen by the plaintiff, at least thirty days but no more than fifty days after the date of service of the statement of claim. It is not necessary to obtain an order for the holding of the meeting under subsection 60 (1) of the Act.

Notice

11. The plaintiff shall serve notice of the settlement meeting in accordance with subsection 60 (2) of the Act and shall file proof of service within ten days after service. A copy of the case management order shall be served with the notice of the settlement meeting.

Date for hearing of motion

12. When proof of service of the notice of settlement meeting is filed, the registrar shall fix a date that is at least fifteen days but no more than sixty days after the date of the settlement meeting, for the hearing of a motion before a judge for the purposes set out in subsection 63 (5) of the Act. The registrar shall notify the plaintiff of the date and the plaintiff shall serve the notice of motion in accordance with subsection 62 (2) of the Act and shall file proof of service.

Statement of settlement

13. If the settlement meeting does not result in a complete settlement of the action, the statement of settlement referred to in subsection 63 (3) of the Act shall, in addition to summarizing any issues of fact and law that have been settled by the parties, contain:
 - i. the names of the lien claimants,
 - ii. if entitlement to a lien or perfection or preservation of a lien are in question, a summary of the relevant issues,
 - iii. a statement of the priorities of the lien claimants and encumbrancers or, if there is no agreement as to priorities, a summary of the relevant issues,
 - iv. a summary of any other issues of fact and law to be determined at trial,
 - v. a statement identifying the documents agreed on for filing at trial and, if the admissibility or authenticity of a document is in question, a summary of the relevant issues,
 - vi. if the amount of the plaintiff's claim is in question, a summary of the relevant issues,
 - vii. if evidence is to be presented at trial, a list of witnesses to be called,
 - viii. an estimate of the time that will be required for trial of the action or consolidated actions,
 - ix. if there is more than one action respecting the same land, an agreement as to which plaintiff shall have carriage of the consolidated actions, and
 - x. a statement indicating that all parties have signed the statement of settlement or, if that is not the case, indicating which parties have done so and the other parties' reasons for not signing.

Filing of statement of settlement

14. The party who conducted the settlement meeting shall file the statement of settlement within ten days after the settlement meeting.

Powers of court at hearing of motion

15. At the hearing of the motion referred to in paragraph 12, the court may exercise the powers set out in subsection 61 (5) of the Act and may,

-
- i. if there is more than one action respecting the same land, consolidate the actions and give carriage of the consolidated action in accordance with the statement of settlement,
 - ii. fix a date, which shall be at least ninety days but not more than 120 days after the hearing of the motion, for the trial of the action or any issue in the action,
 - iii. if the only outstanding issue is the amount of the plaintiff's claim, give judgment and direct a reference to a judge or master to take accounts and report on that issue,
 - iv. direct that the plaintiff having carriage of the action file before the trial date a copy of an abstract of title and sheriff's certificate (in the case of premises subject to the *Registry Act*) or of a certificate of title (in the case of premises subject to the *Land Titles Act*), dated no more than ten days before the trial date or, if the lien does not attach to the premises, a statement by the owner showing the identity of persons with preserved or perfected liens against the premises,
 - v. direct that examinations for discovery be held in respect of any contested issues set out in the statement of settlement, and
 - vi. direct that a brief of the documents referred to in the statement of settlement be filed at least fifteen days before the trial date.

Exception, no parties entitled to notice of settlement meeting

16. If there are no parties who are entitled to notice of a settlement meeting under subsection 60 (2) of the Act, the plaintiff, upon filing an affidavit to that effect with the registrar, may move immediately for summary judgment without holding a settlement meeting or making the motion referred to in paragraph 12.

Refusal of leave for motion

17. If leave for a motion requiring leave is refused, the moving party shall, unless the court orders otherwise, pay costs in an amount determined in accordance with paragraph 18, immediately and regardless of the outcome of the proceeding.

Costs

18. When a party is required to pay costs under paragraph 17 or 26, every opposing party who is separately represented by counsel is entitled to costs in the amount of \$100. Two or more opposing parties who are represented by the same counsel are jointly entitled to costs in that amount.

Examinations for discovery

19. No party may conduct examinations for discovery lasting more than three hours in total without leave. The motion for leave may itself be made without leave.

Notices of readiness

20. It is not necessary to serve notices of readiness for trial.

Record

21. The trial record shall contain a copy of the statement of settlement and of the order made under paragraph 15.

Notice of trial

22. The plaintiff having carriage of the action shall serve a notice in accordance with subsection 60 (4) of the Act.

Listing for trial

23. The plaintiff shall serve and file the record and list the action for trial within forty-five days after the close of pleadings, failing which the registrar shall immediately serve on the plaintiff a notice that the action will be dismissed if the default is not cured within fifteen days after service of the notice. If the plaintiff does not cure the default within that time, the registrar shall dismiss the action, with costs payable by the plaintiff to all defendants who have delivered a defence.

Fast lien track

24. As soon as the action is listed for trial, the registrar shall place it on the fast lien track list.

Trial

25. The trial shall begin within ten months after Day 1.

General penalty for lateness

26. If a party who is required by this rule to take a step within a specific time fails to do so and no other penalty is provided for the default, the registrar shall (except in the case of a defendant against whom pleadings have been noted closed) immediately send the party a notice requiring the party to appear before the court and request an extension of time. If the court grants the extension, the party shall, unless the court orders otherwise, pay costs in an amount determined in accordance with paragraph 18, immediately and regardless of the outcome of the proceeding. If the party fails to appear or if the court refuses the extension, the action shall be dismissed or the party's pleadings struck out, as the case may be. O. Reg. 443/90, r. 9.

COMPLEX TRACK

10.—(1) An action may be placed on the complex track only by means of a transfer under subrule 11 (4).

(2) The following provisions apply to an action on the complex track:

Case management judge

1. A case management judge shall be assigned to the action, to monitor its progress and to make any orders and give any directions that are necessary.

Motions

2. The case management judge shall hear all motions in the action unless he or she is unavailable and the court gives a party leave to make a motion to another judge.

Refusal of leave for motion

3. If leave for a motion requiring leave is refused, the moving party shall, unless the court orders otherwise, pay costs in an amount determined in accordance with paragraph 4, immediately and regardless of the outcome of the proceeding.

Costs

4. When a party is required to pay costs under paragraph 3, every opposing party who is separately represented by counsel is entitled to costs in the amount of \$100 (in the case of a construction lien action) or \$200 (in any other case). Two or more opposing parties who are represented by the same counsel are jointly entitled to costs in the relevant amount.

Status hearing in lien action

5. In the case of a construction lien action, if the action is not set down for trial within eighteen months after Day 1, the case management judge shall hold an informal status hearing.

Complex track list

6. As soon as the action is listed for trial, the registrar shall place it on the complex track list.

Date and time of pre-trial conference

7. The case management judge shall fix the date and time for the pre-trial conference and fix a date by which all parties shall file pre-trial conference briefs.

Pre-trial conference

8. All parties, as well as counsel, shall attend the pre-trial conference, unless an order excusing a party is made before the date fixed for the pre-trial conference.

Trial date

9. The case management judge shall preside at the pre-trial conference and shall at that time fix a trial date, which shall be at least sixty days after the pre-trial conference.

Additional pre-trial conference

10. After the completion of the pre-trial conference, any party may, on requisition, have an additional pre-trial conference conducted by a different judge. Further pre-trial conferences require an order of the court.

Trial

11. The trial shall begin within three years of Day 1. O. Reg. 443/90, r. 10.

TRANSFERS FROM ONE TRACK TO ANOTHER**Transfers between fast and standard tracks**

11.—(1) The court may transfer an action from the fast track to the standard track or from the standard track to the fast track on a party's motion, made with leave after the close of pleadings.

Timely transfers from fast to standard track

(2) Leave is not required for a motion to transfer an action from the fast track to the standard track if notice of the motion is given within ten days after the close of pleadings.

Transfers from family to fast track

(3) The court may transfer an action from the family track to the fast track on a party's motion, made with leave after the close of pleadings.

Transfers to complex track

(4) An action may be placed on the complex track only by a transfer from the fast track, the standard track, the family track or the fast lien track ordered, on a party's motion, by a judge designated by the regional senior judge.

(5) The motion may be made at the hearing of the motion referred to in paragraph 12 of subrule 9 (2) (in the case of a construction lien action) or after the close of pleadings (in any other case).

(6) The motion does not require leave or supporting written material and may be heard by means of a conference telephone call.

Form of order for transfer to complex track

(7) The order transferring the action to the complex track shall be a case management order in Form 6 (complex track).

Transfers from complex track

(8) The case management judge assigned to an action on the complex track may at any time, on a party's motion or on his or her own initiative, transfer the action to the standard track, the fast track, the family track or the fast lien track.

Content of order for transfer other than to complex track

(9) An order transferring an action from one track to another, other than an order transferring it to the complex track, shall be a case management order reciting the appropriate provisions of rule 6 (fast track), rule 7 (standard track), rule 8 (family track) or rule 9 (fast lien track), as the case may be, directions being given and time limits being modified as may be necessary. O. Reg. 443/90, r. 11.

COUNTERCLAIMS, CROSSCLAIMS AND THIRD PARTY CLAIMS

Track for counterclaims, crossclaims and third party claims

12.—(1) A counterclaim, crossclaim or third party claim shall be on the same track as the main action and, except for the delivery of pleadings, shall follow the same timetable.

Postponement of pre-trial conference and trial in main action

(2) If a counterclaim is made against a person who is not already a party to the main action or, if there is a third party claim, the pre-trial conference and trial in the main action shall be postponed in order that they may be held at the same time as the pre-trial conference and trial in the counterclaim or third party claim, unless the court orders otherwise.

Defence of main action by third party

(3) A third party who defends in the main action may do so within the time periods for defending the third party claim. O. Reg. 443/90, r. 12.

FAMILY VARIATION APPLICATIONS MADE ON OR AFTER SEPTEMBER 4, 1990

Scope

13.—(1) This rule applies to applications made on or after the 4th day of September, 1990 for variation of final orders or judgments for support, custody or access.

Material to be filed

(2) When a notice of application is issued, the applicant shall file any supporting material relevant to the determination of the application.

Date for hearing

(3) When the notice of application is issued, a hearing date, which shall be at least forty-five days and not more than sixty days after Day 1, shall be obtained from the registrar.

(4) If the respondent is to be served with the notice of application outside Ontario, the hearing date shall be at least sixty-five days and not more than eighty days after Day 1 (in the case of service elsewhere in Canada or in the United States) or at least

eighty-five days and not more than 100 days after Day 1 (in the case of service anywhere else).

Case management order

(5) When the notice of application is issued, the court shall make a case management order in Form 7 (family variation track).

Special provisions

(6) The following provisions apply to an application on the family variation track:

Notice of application

1. The applicant shall serve the notice of application, together with the case management order, the financial statement, if required, and all other documents to be used at the hearing in support of the application, within ten days after Day 1, and file them with proof of service within seventeen days after Day 1.

Notice of appearance

2. The respondent shall serve the notice of appearance, affidavit in opposition to the application and all other required documents within ten days after the date of service of the notice of application and shall file them with proof of service within fifteen days after that date. After that time, the respondent may file the documents only with leave.

Service outside Ontario

3. If the respondent is served with the notice of application outside Ontario, the periods for serving and filing the notice of appearance are extended (by twenty days, in the case of service elsewhere in Canada or in the United States, or by forty days, in the case of service anywhere else) and the time for the hearing of the application shall be adjusted accordingly.

Documents for settlement conference

4. Before the hearing date set out in the notice of application, every party shall file a one-page summary of the issues and a copy of the documents supporting the party's financial statement, if any.

Failure to file documents

5. If a party does not file the summary and supporting documents by the hearing date, the registrar shall, unless the court orders otherwise, make an order requiring the party to pay costs in an amount determined in accordance with paragraph 6, immediately and regardless of the outcome of the proceeding, and fixing a date on which the party shall appear with counsel to explain the default to the court.

Costs

6. When a party is required to pay costs under paragraph 5 or 11, every opposing party who is separately represented by counsel is entitled to costs in the amount of \$300. Two or more opposing parties who are represented by the same counsel are jointly entitled to costs in that amount.

No examinations, cross-examinations or motions without leave before settlement conference

7. Before the hearing date, no party may examine, cross-examine or make a motion without leave.

Settlement conference

8. On the hearing date set out in the notice of application, there shall be a settlement conference presided over by a judge, a master or a person designated by the regional senior judge.
9. All parties, as well as counsel, shall attend the settlement conference, unless an order excusing a party is made before the hearing date.

Date and time of pre-trial conference

10. If no settlement is achieved at the settlement conference, the person presiding shall fix the date and time for a pre-trial conference (if he or she is of the opinion that a pre-trial conference is necessary), a date for the hearing of the application on the merits and a date after which no party may examine, cross-examine or make motions without leave. The person presiding may give all necessary directions, including a direction for the immediate trial of an issue.

Failure to comply with direction

11. If a party fails to comply with a direction given at the settlement conference, the registrar shall, unless the court orders otherwise, make an order requiring the party to pay costs in an amount determined in accordance with paragraph 6, immediately and regardless of the outcome of the proceeding, and fixing a date on which the party shall appear with counsel to explain the default to the court.

No further examinations, cross-examinations or motions without leave

12. After the relevant date fixed under paragraph 10, a party may examine, cross-examine or make motions only with the leave of the person who presided over the settlement conference.

Refusal of leave

13. If leave for a motion requiring leave is refused, the moving party shall, unless the person who presided orders otherwise, pay costs in an amount determined in accordance with paragraph 14, immediately and regardless of the outcome of the proceeding.

Costs

14. When a party is required to pay costs under paragraph 13, every opposing party who is separately represented by counsel is entitled to costs in the amount of \$200. Two or more opposing parties who are represented by the same counsel are jointly entitled to costs in that amount.

Pre-trial conference

15. All parties, as well as counsel, shall attend the pre-trial conference, unless an order excusing a party is made before the date fixed for the pre-trial conference.

Who shall preside

16. The person who presided at the settlement conference shall also preside at the pre-trial conference, if any, but not at the hearing of the application.

Hearing on the merits

17. The hearing of the application shall begin within six months of Day 1. O. Reg. 443/90, r. 13.

EXISTING ACTIONS

ACTIONS COMMENCED BEFORE JANUARY 1, 1985

14. The following provisions apply to an action commenced before the 1st day of January, 1985:

Notices of readiness

1. It is not necessary to serve notices of readiness for trial.

Case management judge, list

2. As soon as the action is listed for trial, a case management judge shall be assigned to it and the registrar shall place it on a list of actions commenced before the 1st day of January, 1985.

Date and time of pre-trial conference

3. The case management judge shall fix the date and time for the pre-trial conference and fix a date by which all parties shall file pre-trial conference briefs.

Failure to file pre-trial conference brief

4. If a party does not file a pre-trial conference brief by the date fixed by the judge, the registrar shall, unless the case management judge orders otherwise, make an order requiring the party to pay costs in an amount determined in accordance with paragraph 5, immediately and regardless of the outcome of the proceedings, and fixing a date on which the party shall appear with counsel to explain the default to the court.

Costs

5. When a party is required to pay costs under paragraph 4, every opposing party who is separately represented by counsel is entitled to costs in the amount of \$300. Two or more opposing parties who are represented by the same counsel are jointly entitled to costs in that amount.

Pre-trial conference

6. All parties, as well as counsel, shall attend the pre-trial conference, unless an order excusing a party is made before the date fixed for the pre-trial conference. The motion for such an order does not require supporting written material and may be heard by means of a conference telephone call.
7. At the pre-trial conference, the presiding judge may give any necessary directions and may fix a trial date.

Special ready list

8. If the judge presiding at the pre-trial conference does not fix a trial date, the action shall be placed on a ready list reserved for actions commenced before the 1st day of January, 1985. After one month has expired from the date of the pre-trial conference, the action may be called for trial at any time, without notice. O. Reg. 443/90, r. 14.

ACTIONS COMMENCED ON OR AFTER JANUARY 1, 1985 AND BEFORE SEPTEMBER 4, 1990

15. The following provisions apply to an action commenced on or after the 1st day of January, 1985 and before the 4th day of September, 1990:

Notices of readiness

1. It is not necessary to serve notices of readiness for trial.

Listing for trial

2. If the action was commenced on or before 31st day of December, 1989, the plaintiff shall serve and file the record and list the action for trial within thirty days of the close of pleadings or on or before the 5th day of November, 1990, whichever is later.
3. If the action was commenced after the 31st day of December, 1989 and before the 4th day of September, 1990, the plaintiff shall serve and file the record and list the action for trial on or before the 31st day of December, 1990.

Default

4. If the plaintiff does not comply with paragraph 2 or 3, as the case may be, the registrar shall immediately serve on the plaintiff a notice that the action will be dismissed if the plaintiff does not cure the default within fifteen days after the service of the notice. If the plaintiff does not cure the default within that time, the registrar shall dismiss the action, with costs payable by the plaintiff to all defendants who have delivered a defence.

Appropriate list

5. As soon as the action is listed for trial, the registrar shall place it on the standard track list, the family track list or the fast lien track list, or on the complex track list if a judge designated by the regional senior judge so orders on a party's motion. The motion does not require leave or supporting written material and may be heard by means of a conference telephone call.

Date and time of case management conference

6. The registrar shall also fix a date and time for a case management conference and may order that the conference be held by means of a conference telephone call.

Case management conference

7. The judge presiding at the case management conference shall fix the date and time for the pre-trial conference and fix a date by which all parties shall file pre-trial conference briefs.

Action continues on appropriate track

8. Paragraphs 10 to 17 of rule 7 (standard track), paragraphs 19 to 26 of rule 8 (family track), paragraph 10 of rule 9 (fast lien track) or paragraphs 1 to 10 of subrule 10 (2) (complex track), as the case may be, apply to the action with necessary modifications. O. Reg. 443/90, r. 15.

CIVIL CASE MANAGEMENT COMMITTEE

Composition

- 15.1—(1)** There shall be a Civil Case Management Committee composed of,
- (a) eight members of the Essex Law Association chosen by that association;
 - (b) five members of the staff of the Ministry of the Attorney General in Windsor chosen by the Court Services Manager at Windsor; and
 - (c) the judges and master of the Ontario Court (General Division) who reside in the Southwest Region.

Functions

- (2) The Civil Case Management Committee shall,
- (a) monitor and evaluate the operation of case management under these rules;
 - and

-
- (b) consider proposals for amendments to these rules that are submitted to it and present recommendations for amendments to the Civil Rules Committee. O. Reg. 397/91, s. 5.

Short title

16. These rules may be cited as the Essex Civil Case Management Rules.

REVOCATION

17. These rules are revoked on December 31, 1994, O. Regs. 537/92, s. 1; 763/93, s. 1.

FORM 1

CASE INFORMATION STATEMENT

(This space for court personnel only)

Ontario Court (General Division)

File number.....

County of Essex

Date originating process issued, 199

Plaintiff(s) (*insert name(s)*)

Solicitor (*insert name, address, telephone number, fax number and firm name*)

Defendant(s) (*insert name(s)*)

Solicitor (*same information as for plaintiff's solicitor, if known*)

Category of case (*check as many as apply*):

TORTS	CONTRACTS	FAMILY	OTHER
Motor Vehicle	Real property	Divorce	Bankruptcy
Other negligence	Construction lien	Property	Landlord/tenant
Professional malpractice	Collection	Support	Breach of trust
	Wrongful dismissal	Custody	Estates
	Other breach of contract	Other	Other

Track selected (*check one*):

Fast
Standard
Family
Fast lien

Proposed pre-trial conference date, 199

Proposed trial date, 199

Is this a jury case? Yes No

Other information:

Date

.....
Signature of plaintiff's solicitor

O.Reg. 443/90, Form 1.

FORM 2

**CASE MANAGEMENT ORDER
(FAST TRACK)**

(*General heading*)

(*Court seal*)

**CASE MANAGEMENT ORDER
(FAST TRACK)**

IT IS ORDERED THAT:

Statement of claim

1. The plaintiff shall serve the statement of claim, together with the plaintiff's affidavit of documents, the case information statement and the case management order, on or before the (*insert date thirty days after Day 1*), and file them with proof of service on or before the (*insert date forty days after Day 1*). Copies of the documents referred to in Schedule A of the plaintiff's affidavit of documents shall be served with the statement of claim and other documents, but shall not be filed.

Default

2. If the plaintiff does not comply with paragraph 1 and remains in default on the (*insert date forty-five days after Day 1*), the registrar shall immediately serve on the plaintiff a notice that the action will be dismissed if the default is not cured within fifteen days after service of the notice. If the plaintiff does not cure the default within that time, the registrar shall dismiss the action, with costs payable by the plaintiff to all defendants who have delivered a defence.

Statement of defence

3. The defendant shall serve the statement of defence, together with the defendant's affidavit of documents, within thirty days after the date of service of the statement of claim, and shall file them with proof of service within forty days after that date. Copies of the documents referred to in Schedule A of the defendant's affidavit of documents shall be served with the statement of defence and affidavit of documents, but shall not be filed.

Default

4. On the forty-fifth day after the date of service of the statement of claim, the registrar shall note in default a defendant who has not yet complied with paragraph 3.

Service outside Ontario

5. If the defendant is served with the statement of claim outside Ontario, the periods for serving and filing the statement of defence are extended (by twenty days, in the case of service elsewhere in Canada or in the United States, or by forty days, in the case of service anywhere else) and the other time periods applicable to the action shall be adjusted accordingly.

Notice of action, notice of intent to defend

6. The time periods applicable to the action are not extended if a notice of action or notice of intent to defend is used.

Reply

7. The reply, if any, shall be delivered within ten days after delivery of the statement of defence. No reply shall be delivered after that time without leave of the court.

Leave for motions

8. No motion may be made without leave, except a motion referred to in paragraph 11 (examinations for discovery) of this case management order or subrule 11 (2) (timely transfers) of the Essex Civil Case Management Rules.

Refusal of leave

9. If leave for a motion is refused, the moving party shall, unless the court orders

otherwise, pay costs in an amount determined in accordance with paragraph 10, immediately and regardless of the outcome of the proceeding.

Costs

10. When a party is required to pay costs under paragraph 9, every opposing party who is separately represented by counsel is entitled to costs in the amount of \$200. Two or more opposing parties who are represented by the same counsel are jointly entitled to costs in that amount.

Examinations for discovery

11. No party may conduct examinations for discovery lasting more than three hours in total without leave. The motion for leave may itself be made without leave.

Notices of readiness

12. It is not necessary to serve notices of readiness for trial.

Listing for trial

13. The plaintiff shall serve and file the record and list the action for trial within forty-five days after the close of pleadings, failing which the registrar shall immediately serve on the plaintiff a notice that the action will be dismissed if the default is not cured within fifteen days after service of the notice. If the plaintiff does not cure the default within that time, the registrar shall dismiss the action, with costs payable by the plaintiff to all defendants who have delivered a defence.

Date and time of pre-trial conference, fast track list

14. As soon as the action is listed for trial, the registrar shall place it on the fast track list, fix the date and time for the pre-trial conference and fix a date by which all parties shall file pre-trial conference briefs. The date fixed for filing pre-trial conference briefs shall be at least fourteen days earlier than the day fixed for the pre-trial conference.

Failure to file pre-trial conference brief

15. If a party does not file a pre-trial conference brief by the date fixed by the registrar, the registrar shall, unless the court orders otherwise, make an order requiring the party to pay costs in an amount determined in accordance with paragraph 16, immediately and regardless of the outcome of the proceeding, and fixing a date on which the party shall appear with counsel to explain the default to the court.

Costs

16. When a party is required to pay costs under paragraph 15, every opposing party who is separately represented by counsel is entitled to costs in the amount of \$300. Two or more opposing parties who are represented by the same counsel are jointly entitled to costs in that amount.

No further examinations for discovery without leave

17. After the date fixed for the pre-trial conference, no party may examine for discovery without leave.

Pre-trial conference

18. All parties, as well as counsel, shall attend the pre-trial conference, unless an order excusing a party is made before the date fixed for the pre-trial conference.

Trial date

19. At the pre-trial conference, the judge shall fix a trial date.

Trial

20. The trial shall begin on or before the *(insert date six months after Day 1)*.

Date Signed by
(Registrar)

Address of
court office

.....

.....

O.Reg. 443/90, Form 2.

FORM 3**CASE MANAGEMENT ORDER
(STANDARD TRACK)**

(General heading)

(Court seal)

**CASE MANAGEMENT ORDER
(STANDARD TRACK)****IT IS ORDERED THAT:****Statement of claim**

1. The plaintiff shall serve the statement of claim, together with the case information statement and this case management order, on or before the *(insert date sixty days after Day 1)*, and file them with proof of service on or before the *(insert date seventy days after Day 1)*. O. Reg. 397/91, s. 6(1).

Default

2. If the plaintiff does not comply with paragraph 1 and remains in default on the *(insert date seventy-five days after Day 1)*, the registrar shall immediately serve on the plaintiff a notice that the action will be dismissed if the default is not cured within fifteen days after service of the notice. If the plaintiff does not cure the default within that time, the registrar shall dismiss the action, with costs payable by the plaintiff to all defendants who have delivered a defence. O. Reg. 397/91, s. 6(2).

Statement of defence

3. The defendant shall serve the statement of defence, within sixty days after the date of service of the statement of claim, and shall file it with proof of service within seventy days after that date. O. Reg. 397/91, s. 6(3).

Default

4. On the seventy-fifth day after the date of service of the statement of claim, the registrar shall note in default a defendant who has not yet complied with paragraph 3. O. Reg. 397/91, s. 6(4).

Refusal of leave

14. If leave for a motion requiring leave is refused, the moving party shall, unless the court orders otherwise, pay costs in an amount determined in accordance with paragraph 15, immediately and regardless of the outcome of the proceeding.

Costs

15. When a party is required to pay costs under paragraph 14, every opposing party who is separately represented by counsel is entitled to costs in the amount of \$200. Two or more opposing parties who are represented by the same counsel are jointly entitled to costs in that amount.

Pre-trial conference

16. All parties, as well as counsel, shall attend the pre-trial conference, unless an order excusing a party is made before the date fixed for the pre-trial conference.

Trial date

17. At the pre-trial conference, the judge shall fix a trial date, which shall be at least thirty days after the pre-trial conference.

Trial

18. The trial shall begin on or before the *(insert date eighteen months after Day 1)*.

Date Signed by
(Registrar)

Address of
court office
.....

O.Reg. 443/90, Form 3; 397/91, s. 6.

FORM 4**CASE MANAGEMENT ORDER
(FAMILY TRACK)**

(General heading)

(Court seal)

**CASE MANAGEMENT ORDER
(FAMILY TRACK)****IT IS ORDERED THAT:****Date of management conference**

1. The management conference shall take place on the *(insert date at least ninety days but not more than 120 Days after Day 1)*.

Petition or statement of claim

2. The plaintiff shall serve the petition or statement of claim, together with the financial statement if required, the case information statement and this case management order, on or before the *(insert date thirty days after Day 1)*, and

file them with proof of service on or before the *(insert date forty days after Day 1)*.

Default

3. If the plaintiff does not comply with paragraph 2 and remains in default on the *(insert date forty-five days after Day 1)*, the registrar shall immediately serve on the plaintiff a notice that the action will be dismissed if the default is not cured within fifteen days after service of the notice. If the plaintiff does not cure the default within that time, the registrar shall dismiss the action, with costs payable by the plaintiff to all defendants who have delivered a defence.

Answer or statement of defence

4. The defendant shall serve the answer or statement of defence, together with the financial statement if required, within thirty days after the date of service of the petition or statement of claim, and shall file them with proof of service within forty days after that date.

Default

5. On the forty-fifth day after the date of service of the petition or statement of claim, the registrar shall note in default a defendant who has not yet complied with paragraph 4.

Service outside Ontario

6. If the defendant is served with the petition or statement of claim outside Ontario, the periods for serving and filing the answer or statement of defence are extended (by twenty days, in the case of service elsewhere in Canada or in the United States, or by forty days, in the case of service anywhere else) and the other time periods applicable to the action shall be adjusted accordingly.

Notice of action, notice of intent to defend

7. The time periods applicable to the action are not extended if a notice of action or notice of intent to defend is used.

Reply

8. The reply, if any, shall be delivered within twenty days after delivery of the answer, answer and counterclaim or statement of defence. No reply shall be delivered after that time without leave of the court.

Notices of readiness

9. It is not necessary to serve notices of readiness for trial.

Listing for trial

10. The plaintiff shall serve and file the record and list the action for trial within forty-five days after the close of pleadings, failing which the registrar shall immediately serve on the plaintiff a notice that the action will be dismissed if the default is not cured within fifteen days after service of the notice. If the plaintiff does not cure the default within that time, the registrar shall dismiss the action, with costs payable by the plaintiff to all defendants who have delivered a defence.

Family track

11. As soon as the action is listed for trial, the registrar shall place it on the family track list.

Rescheduling management conference

12. The court may, on a party's motion, reschedule the management conference for another date. The motion does not require supporting written material. Arrangements for disposition of the motion by conference telephone call or in writing, without an appearance, may be made through the registrar's office. O. Reg. 397/91, s. 7(1).

Documents for management conference

13. At least seven days before the date of the management conference, every party shall serve on every other party and file with proof of service a one-page summary of the issues in the action, a net family property statement, if required, with copies of documents substantiating the calculations, and a list of documents still to be obtained.

Failure to file documents

14. If a party does not file the documents within the prescribed time period, the registrar shall, unless the court orders otherwise, make an order requiring the party to pay costs in an amount determined in accordance with paragraph 15, immediately and regardless of the outcome of the proceeding, and fixing a date on which the party shall appear with the counsel to explain the default to the court.

Costs

15. When a party is required to pay costs under paragraph 14, 18 or 20, every opposing party who is separately represented by counsel is entitled to costs in the amount of \$300. Two or more opposing parties who are represented by the same counsel are jointly entitled to costs in that amount.

Management conference

16. All parties, as well as counsel, shall attend the management conference, unless an order excusing a party is made before the date fixed for the management conference.
17. A judge, a master or a person designated by the regional senior judge shall preside at the management conference, shall discuss with the parties the possibility of settlement and may give all necessary directions, including a direction for the immediate trial of an issue and the direction of a reference on an issue.

Failure to comply with direction

18. If a party fails to comply with a direction given at the management conference, the registrar shall, unless the court orders otherwise, make an order requiring the party to pay costs in an amount determined in accordance with paragraph 15, immediately and regardless of the outcome of the proceeding, and fixing a date on which the party shall appear with counsel to explain the default to the court.

Date and time of pre-trial conference

19. At the management conference, the person presiding shall also fix the date and time for the pre-trial conference and fix a date by which all parties shall file pre-trial conference briefs. The date fixed for filing pre-trial conference briefs shall be at least seven days earlier than the date fixed for the pre-trial conference. O. Reg. 397/91, s. 7(2).

Failure to file pre-trial conference brief

20. If a party does not file a pre-trial conference brief by the date fixed under

paragraph 19, the registrar shall, unless the court orders otherwise, make an order requiring the party to pay costs in an amount determined in accordance with paragraph 15, immediately and regardless of the outcome of the proceeding, and fixing a date on which the party shall appear with counsel to explain the default to the court.

No further examinations for discovery or motions without leave

21. After the date fixed for the pre-trial conference, no party may examine for discovery or make a motion without leave.

Refusal of leave

22. If leave for a motion requiring leave is refused, the moving party shall, unless the court orders otherwise, pay costs in an amount determined in accordance with paragraph 23, immediately and regardless of the outcome of the proceeding.

Costs

23. When a party is required to pay costs under paragraph 22, every opposing party who is separately represented by counsel is entitled to costs in the amount of \$200. Two or more opposing parties who are represented by the same counsel are jointly entitled to costs in that amount.

Pre-trial conference

24. All parties, as well as counsel, shall attend the pre-trial conference, unless an order excusing a party is made before the date fixed for the pre-trial conference.

Who shall preside

25. The person who presided at the management conference may also preside at the pre-trial conference. O. Reg. 397/91, s. 7(3).

Trial date

26. At the pre-trial conference, the person presiding shall fix a trial date, which shall be at least thirty days after the pre-trial conference.

Trial

27. The trial shall begin on or before the *(insert date one year after Day 1)*.

Date Signed by
(Registrar)

Address of
court office
.....

O. Reg. 443/90, Form 4; 397/91, s. 7.

FORM 5

**CASE MANAGEMENT ORDER
(FAST LIEN TRACK)**

(General heading)

(Court seal)

**CASE MANAGEMENT ORDER
(FAST LIEN TRACK)**

IT IS ORDERED THAT:

Statement of claim

1. The plaintiff shall serve the statement of claim, together with the plaintiff's affidavit of documents, the case information statement and this case management order, on or before the *(insert date ninety days after Day 1)*, in accordance with subsection 53 (2) of the *Construction Lien Act* ("the Act"), and shall file them with proof of service on or before the *(insert date 100 days after Day 1)*. The documents referred to in Schedule A of the plaintiff's affidavit of documents shall include the claim for lien (as registered, if the lien attaches to the premises) and affidavit of verification, and shall be served with the statement of claim and other documents, but shall not be filed.

Default

2. If the plaintiff does not comply with paragraph 1 and remains in default on the *(insert date 105 days after Day 1)*, the registrar shall immediately serve on the plaintiff a notice that the action will be dismissed if the default is not cured within fifteen days after service of the notice. If the plaintiff does not cure the default within that time, the registrar shall dismiss the action, with costs payable by the plaintiff to all defendants who have delivered a defence. However, unless the court orders otherwise, the registration of the claim for lien and of any certificate of action in respect of the lien shall not be vacated until ten days have elapsed after the order of dismissal is served on the plaintiff.

Statement of defence

3. The defendant shall deliver the statement of defence, together with the defendant's affidavit of documents, within twenty days after the date of service of the statement of claim, in accordance with subsection 54 (1) of the Act. Copies of the documents referred to in Schedule A of the defendant's affidavit of documents shall be served with the statement of defence and affidavit of documents, but shall not be filed.

Default

4. On the twenty-fifth day after the date of service of the statement of claim, the registrar shall note in default a defendant who has not yet complied with paragraph 3.

Motion for judgment

5. The plaintiff shall move for judgment within sixty days after the defendant is noted in default. Affidavit evidence may be received at the hearing of the motion.

Default

6. If the plaintiff does not comply with paragraph 5, the registrar shall immediately serve on the plaintiff a notice that the action will be dismissed if the default is not cured within fifteen days after service of the notice. If the plaintiff does not cure the default within that time, the registrar shall dismiss the action. However, unless the court orders otherwise, the registration of the claim for lien and of any certificate of action in respect of the lien shall not be vacated until ten days have elapsed after the order of dismissal is served on the plaintiff.

Service outside Ontario

7. If the defendant is served with the statement of claim outside Ontario, the

periods for serving and filing the statement of defence are extended (by twenty days, in the case of service elsewhere in Canada or in the United States, or by forty days, in the case of service anywhere else) and the other time periods applicable to the action shall be adjusted accordingly.

Notice of action, notice of intent to defend

8. The time periods applicable to the action are not extended if a notice of action or notice of intent to defend is used.

Reply

9. The reply, if any, shall be delivered within ten days after delivery of the statement of defence. No reply shall be delivered after that time without leave of the court.

Settlement meeting obligatory

10. A settlement meeting shall be held in accordance with section 61 of the Act on a day chosen by the plaintiff, at least thirty days but not more than fifty days after the date of service of the statement of claim. It is not necessary to obtain an order for the holding of the meeting under subsection 60 (1) of the Act.

Notice

11. The plaintiff shall serve notice of the settlement meeting in accordance with subsection 60 (2) of the Act and shall file proof of service within ten days after service. A copy of this case management order shall be served with the notice of the settlement meeting.

Date for hearing of motion

12. When proof of service of the notice of settlement meeting is filed, the registrar shall fix a date that is at least fifteen days but not more than sixty days after the date of the settlement meeting, for the hearing of a motion before a judge for the purposes set out in subsection 61 (5) of the Act. The registrar shall notify the plaintiff of the date and the plaintiff shall serve the notice of motion in accordance with subsection 60 (2) of the Act and shall file proof of service.

Statement of settlement

13. If the settlement meeting does not result in a complete settlement of the action, the statement of settlement referred to in subsection 61 (3) of the Act shall, in addition to summarizing any issues of fact and law that have been settled by the parties, contain:
 - i. the names of the lien claimants,
 - ii. if entitlement to a lien or perfection or preservation of a lien are in question, a summary of the relevant issues,
 - iii. a statement of the priorities of the lien claimants and encumbrancers or, if there is no agreement as to priorities, a summary of the relevant issues,
 - iv. a summary of any other issues of fact and law to be determined at trial,
 - v. a statement identifying the documents agreed on for filing at trial and, if the admissibility or authenticity of a document is in question, a summary of the relevant issues,
 - vi. if the amount of the plaintiff's claim is in question, a summary of the relevant issues,
 - vii. if evidence is to be presented at trial, a list of witnesses to be called,
 - viii. an estimate of the time that will be required for trial of the action or consolidated actions,

-
- ix. if there is more than one action respecting the same land, an agreement as to which plaintiff shall have carriage of the consolidated actions, and
 - x. a statement indicating that all parties have signed the statement of settlement or, if that is not the case, indicating which parties have done so and the other parties' reasons for not signing.

Filing of statement of settlement

- 14. The party who conducted the settlement meeting shall file the statement of settlement within ten days after the settlement meeting.

Powers of court at hearing of motion

- 15. At the hearing of the motion referred to in paragraph 12, the court may exercise the powers set out in subsection 61 (5) of the Act and may,
 - i. if there is more than one action respecting the same land, consolidate the actions and give carriage of the consolidated action in accordance with the statement of settlement,
 - ii. fix a date, which shall be at least ninety days but no more than 120 days after the hearing of the motion, for the trial of action or any issue in the action,
 - iii. if the only outstanding issue is the amount of the plaintiff's claim, give judgment and direct a reference to a judge or master to take accounts and report on that issue,
 - iv. direct that the plaintiff having carriage of the action file before the trial date a copy of an abstract of title and sheriff's certificate (in the case of premises subject to the *Registry Act*) or of a certificate of title (in the case of premises subject to the *Land Titles Act*), dated not more than ten days before the trial date or, if the lien does not attach to the premises, a statement by the owner showing the identity of persons with preserved or perfected liens against the premises,
 - v. direct that examinations for discovery be held in respect of any contested issues set out in the statement of settlement, and
 - vi. direct that a brief of the documents referred to in the statement of settlement be filed at least fifteen days before the trial date.

Exception, no parties entitled to notice of settlement meeting

- 16. If there are no parties who are entitled to notice of a settlement meeting under subsection 60 (2) of the Act, the plaintiff, upon filing an affidavit to that effect with the registrar, may move immediately for summary judgment without holding a settlement meeting or making the motion referred to in paragraph 12.

Refusal of leave for motion

- 17. If leave for a motion requiring leave is refused, the moving party shall, unless the court orders otherwise, pay costs in an amount determined in accordance with paragraph 18, immediately and regardless of the outcome of the proceeding.

Costs

- 18. When a party is required to pay costs under paragraph 17 or 26, every opposing party who is separately represented by counsel is entitled to costs in the amount of \$100. Two or more opposing parties who are represented by the same counsel are jointly entitled to costs in that amount.

Examinations for discovery

19. No party may conduct examinations for discovery lasting more than three hours in total without leave. The motion for leave may itself be made without leave.

Notices of readiness

20. It is not necessary to serve notices of readiness for trial.

Record

21. The trial record shall contain a copy of the statement of settlement and of the order made under paragraph 15.

Notice of trial

22. The plaintiff having carriage of the trial shall serve a notice in accordance with subsection 60 (4) of the Act.

Listing for trial

23. The plaintiff shall serve and file the record and list the action for trial within **forty-five days after the close of pleadings**, failing which the registrar shall immediately serve on the plaintiff a notice that the action will be dismissed if the default is not cured within fifteen days after service of the notice. If the plaintiff does not cure the default within that time, the registrar shall dismiss the action, with costs payable by the plaintiff to all defendants who have delivered a defence.

Fast lien track

24. As soon as the action is listed for trial, the registrar shall place it on the fast lien track list.

Trial

25. The trial shall begin on or before the *(insert date ten months after Day 1)*.

General penalty for lateness

26. If a party who is required by this order to take a step within a specific time fails to do so and no other penalty is provided for the default, the registrar shall (except in the case of a defendant against whom pleadings have been noted closed) immediately send the party a notice requiring the party to appear before the court and request an extension of time. If the court grants the extension, the party shall, unless the court orders otherwise, pay costs in an amount determined in accordance with paragraph 18, immediately and regardless of the outcome of the proceeding. If the party fails to appear or if the court refuses the extension, the action shall be dismissed or the party's pleadings struck out, as the case may be.

Date Signed by
(Registrar)

Address of
court office
.....

FORM 6

**CASE MANAGEMENT ORDER
(COMPLEX TRACK)**

(General heading)

(Court seal)

**CASE MANAGEMENT ORDER
(COMPLEX TRACK)**

IT IS ORDERED THAT:

Transfer to complex track

1. This action is transferred to the complex track.

Case management judge

2. *(name of judge)* is assigned to the action as case management judge, to monitor its progress and to make any orders and give directions that are necessary.

Motions

3. The case management judge shall hear all motions in the action unless he or she is unavailable and the court gives a party leave to make a motion to another judge.

Refusal of leave for motion

4. If leave for a motion requiring leave is refused, the moving party shall, unless the court orders otherwise, pay costs in an amount determined in accordance with paragraph 5, immediately and regardless of the outcome of the proceeding.

Costs

5. When a party is required to pay costs under paragraph 4, every opposing party who is separately represented by counsel is entitled to costs in the amount of \$100 (in the case of a construction lien action) or \$200 in any other case. Two or more opposing parties who are represented by the same counsel are jointly entitled to costs in the relevant amount.

Status hearing in lien action

6. In the case of a construction lien action, if the action is not set down for trial within eighteen months after Day 1, the case management judge shall hold an informal status hearing.

Complex track list

7. As soon as the action is listed for trial, the registrar shall place it on the complex track list.

Date and time of pre-trial conference

8. The case management judge shall fix the date and time for the pre-trial conference and fix a date by which all parties shall file pre-trial conference briefs.

Pre-trial conference

9. All parties, as well as counsel, shall attend the pre-trial conference, unless an order excusing a party is made before the date fixed for the pre-trial conference.

Trial date

10. The case management judge shall preside at the pre-trial conference and shall at that time fix a trial date, which shall be at least sixty days after the pre-trial conference.

Additional pre-trial conference

11. After the completion of the pre-trial conference, any party may, on requisition, have an additional pre-trial conference conducted by a different judge. Further pre-trial conferences require an order of the court.

Trial

12. The trial shall begin on or before the *(insert date three years after Day 1)*.

Date Signed by
(Judge)

Address of
court office
.....

O. Reg. 443/90, Form 6.

FORM 7

CASE MANAGEMENT ORDER (FAMILY VARIATION TRACK)

(General heading)

(Court seal)

CASE MANAGEMENT ORDER (FAMILY VARIATION TRACK)

Notice of application

1. The applicant shall serve the notice of application, together with this case management order, the financial statement, if required, and all other documents to be used at the hearing in support of the application, on or before the *(insert date ten days after Day 1)*, and file them with proof of service on or before the *(insert date seventeen days after Day 1)*.

Notice of appearance

2. The respondent shall serve the notice of appearance, affidavit in response and all other required documents within ten days after the date of service of the notice of application, and shall file them with proof of service within fifteen days after that date. After that time, the respondent may file the documents only with leave.

Service outside Ontario

3. If the respondent is served with the notice of application outside Ontario, the periods for serving and filing the notice of appearance are extended (by twenty days, in the case of service elsewhere in Canada or in the United States, or by forty days, in the case of service anywhere else) and the time for the hearing of the application shall be adjusted accordingly.

Documents for settlement conference

4. On or before the hearing date set out in the notice of application, every party shall file a one-page summary of the issues and a copy of the documents supporting the party's financial statement, if any.

Failure to file documents

5. If a party does not file the summary and supporting documents by the hearing date, the registrar shall, unless the court orders otherwise, make an order requiring the party to pay costs in an amount determined in accordance with paragraph 6, immediately and regardless of the outcome of the proceeding, and fixing a date on which the party shall appear with the counsel to explain the default to the court.

Costs

6. When a party is required to pay costs under paragraph 5 or 11, every opposing party who is separately represented by counsel is entitled to costs in the amount of \$300. Two or more opposing parties who are represented by the same counsel are jointly entitled to costs in that amount.

No examinations, cross-examinations or motions without leave before settlement conference

7. Before the hearing date, no party may examine, cross-examine or make a motion without leave.

Settlement conference

8. On the hearing date set out in the notice of application, there shall be a settlement conference presided over by a judge, a master or a person designated by the regional senior judge.
9. All parties, as well as counsel, shall attend the settlement conference, unless an order excusing a party is made before the hearing date.

Date and time of pre-trial conference

10. If no settlement is achieved at the settlement conference, the person presiding shall fix the date and time for a pre-trial conference (if he or she is of the opinion that a pre-trial conference is necessary), a date for the hearing of the application on the merits and a date after which no party may examine, cross-examine or make motions without leave. The person presiding may give all necessary directions, including a direction for the immediate trial of an issue.

Failure to comply with direction

11. If a party fails to comply with a direction given at the settlement conference, the registrar shall, unless the court orders otherwise, make an order requiring the party to pay costs in an amount determined in accordance with paragraph 6, immediately and regardless of the outcome of the proceeding, and fixing a date on which the party shall appear with counsel to explain the default to the court.

No further examinations, cross-examinations or motions without leave

12. After the relevant date fixed under paragraph 10, a party may examine, cross-examine or make motions only with the leave of the person who presided over the settlement conference.

Refusal of leave

13. If leave for a motion requiring leave is refused, the moving party shall, unless the person who presided orders otherwise, pay costs in an amount determined

ALTERNATIVE DISPUTE MECHANISM

Is A.D.R. requested? (Do A.D.R. request form)

IS THIS A JURY CASE?

CASE MANAGEMENT JUDGE

RESPONSE OF DEFENDANT TO THE CASE INFORMATION STATEMENT

Name of defendant

Name of solicitor

I disagree with the following information, track selection or completion times given by the plaintiff on the case information statement on the reverse and ask that it be amended as shown: (*Give full details of matters in dispute, including track preferred.*)

Is a case conference requested?

I consent to the defendant's amendment.

.....
solicitor for the plaintiff

DISPOSITION OF CASE MANAGEMENT JUDGE:

APPENDIX F

District of Algoma Civil Case Management Rules

**REGULATION MADE UNDER THE
COURTS OF JUSTICE ACT**

**R.R.O. 1990, Reg. 187
Amended O. Reg. 536/92; O. Reg. 762/93**

DISTRICT OF ALGOMA CIVIL CASE MANAGEMENT RULES

APPLICATION OF RULES

These rules

1.—(1) These rules apply to civil and family proceedings commenced in the District of Algoma.

Rules of Civil Procedure

(2) The Rules of Civil Procedure also apply to proceedings to which these rules apply, but in the event of a conflict between these rules and the Rules of Civil Procedure, these rules prevail.

Time for defence

(3) The time for delivery of a statement of defence is, subject to the provisions of any Act, the shorter of the time provided by these rules and the time provided by the Rules of Civil Procedure.

Default procedures

(4) Nothing in these rules prevents a plaintiff from signing default judgment or taking other measures on default by a party in accordance with the Rules of Civil Procedure or the Act under which an originating process is issued, even if the time periods in these rules are longer than those provided in the Rules of Civil Procedure or the Act.

Dispensing with these rules

(5) The court may dispense with compliance with any of these rules where it is just and necessary to do so. O. Reg. 442/90, r. 1.

INTERPRETATION

2.—(1) These rules shall be liberally interpreted to effect the just, expeditious and least expensive determination on its merits of every proceeding to which they apply.

(2) Where a procedure is not provided for in these rules, the practice shall be determined in accordance with the principles set out in subrule (1). O. Reg. 442/90, r. 2

DEFINITIONS

3. In these rules,

“case management judge” means the judge assigned to a proceeding under rule 12.

“Day 1” means the day on which a proceeding is commenced;

“defendant” includes a respondent in a divorce action or an application;

“plaintiff” includes a petitioner in a divorce action and an applicant;

“responding affidavit” means an affidavit filed in response to an application;

“statement of claim” includes any originating process;

“statement of defence” includes an answer, a responding affidavit, a counterclaim, a counterpetition and a counter-application;

“trial” includes the hearing of an application. O. Reg. 442/90, r. 3.

CASE INFORMATION STATEMENT

Plaintiff files on commencement

4.—(1) The plaintiff shall file a case information statement (Form 1) with the statement of claim when commencing a proceeding.

Choice of track

(2) In the case information statement, the plaintiff shall select the expedited track, the standard track or the complex track provided under rules 7 to 9.

Change of track

(3) The plaintiff may change the track selection before service of the statement of claim by filing an amended case information statement.

Service

(4) The plaintiff shall serve the case information statement in duplicate on every defendant with the statement of claim. O. Reg. 442/90, r. 4.

RESPONSE TO CASE INFORMATION STATEMENT

Defendant completes, serves and files

5.—(1) Every defendant shall complete the defendant's portion of the case information statement served on him or her, showing the defendant's response to the information and time estimates provided and the track selected by the plaintiff, and shall serve the completed case information statement on the plaintiff and file it.

No dispute

(2) Where no defendant disputes the track selected by the plaintiff, the proceeding shall be on the track selected by the plaintiff.

Dispute followed by agreement

(3) Where a defendant disputes the information or time estimates provided or the track selected by the plaintiff, the parties shall confer and attempt to agree on the information, time estimates and track selection and, if the parties reach agreement, they shall jointly file an amended case information statement.

Dispute procedure where no agreement

(4) Where the parties are unable to agree on the information, time estimates or track selection, the case management judge, on request of a party, shall hold a case conference and determine the information, time estimates and track for the proceeding. O. Reg. 442/90, r. 5.

TIME

6.—(1) The parties may by agreement abridge any time on the case information statement.

(2) The case management judge may at a case conference change the track of a proceeding or abridge or extend the time within which a step is to be taken. O. Reg. 442/90, r. 6.

EXPEDITED TRACK

7.—(1) In a proceeding on the expedited track,

- (a) the plaintiff shall file proof of service of the statement of claim and case information statement within forty days after Day 1;
- (b) the defendant shall file the statement of defence with proof of service not later than seventy days after Day 1, unless subrule 1 (3) prescribes an earlier time;

-
- (c) the registrar shall fix the date of the pre-trial conference within 100 days after Day 1;
 - (d) the pre-trial conference shall be held not more than 160 days after Day 1, but at least thirty days after the fixing of its date; and
 - (e) the trial shall begin not more than 220 days after Day 1, but at least thirty days after the pre-trial conference.

(2) If a party to an expedited track proceeding serves an affidavit of documents, every other party shall serve an affidavit of documents within ten days. O. Reg. 442/90, r. 7.

STANDARD TRACK

8. In a proceeding on the standard track,

- (a) the plaintiff shall file proof of service of the statement of claim and case information statement within forty days after Day 1;
- (b) the defendant shall file the statement of defence with proof of service not later than 100 days after Day 1, unless subrule 1 (3) prescribes an earlier time;
- (c) the registrar shall fix the date of the pre-trial conference within 130 days after Day 1;
- (d) the pre-trial conference shall be held not more than 250 days after Day 1, but at least thirty days after the fixing of its date; and
- (e) the trial shall begin not more than 340 days after Day 1, but at least thirty days after the pre-trial conference. O. Reg. 442/90, r. 8.

COMPLEX TRACK

9. In a proceeding on the complex track,

- (a) the plaintiff shall file proof of service of the statement of claim and case information statement within forty days after Day 1;
- (b) the defendant shall file the statement of defence with proof of service not later than 100 days after Day 1, unless subrule 1 (3) prescribes an earlier time;
- (c) the case management judge shall hold a case conference within thirty days after the filing of the statement of defence and shall set the estimated times for the holding of the pre-trial conference and the trial; and
- (d) the trial shall begin within three years after Day 1. O. Reg. 442/90, r. 9.

PROVISIONS APPLICABLE TO ALL TRACKS

Defendant outside Ontario

10.—(1) Where a defendant is served with the statement of claim outside Ontario, the period for filing the statement of defence is extended by twenty days in the case of service elsewhere in Canada or the United States, or by forty days in the case of service anywhere else.

Notice of action and notice of intent to defend

(2) The times prescribed in these rules are not extended if a notice of action or notice of intent to defend is used.

Discovery and cross-examinations

(3) Discovery or cross-examinations shall be held and undertakings arising from them shall be completed before the date of the pre-trial conference.

Trial record

(4) A trial record shall be served and filed before the date of the pre-trial conference.

Listing for trial

(5) It is not necessary to serve or file a notice of readiness for trial or a notice of listing for trial, and the registrar shall automatically list a proceeding for trial on the filing of the trial record.

Pre-trial brief

(6) Each party shall serve and file a pre-trial brief at least one week before the pre-trial conference.

Family proceedings

(7) In a family proceeding,

- (a) each party shall serve and file a one-page summary of the issues with the pre-trial brief; and
- (b) where equalization of net family property is in issue, each party shall serve and file a statement of net family property with the pre-trial brief. O. Reg. 442/90, r. 10.

COUNTERCLAIM, CROSSCLAIM OR THIRD PARTY CLAIM

Same track as main action

11.—(1) A counterclaim, crossclaim or third party claim shall be on the same track as the main action.

Postponement of pre-trial and trial in main action

(2) If a counterclaim is made against a person who is not already a party to the main action or if a third party claim is issued, the pre-trial conference and trial in the main action shall be postponed in order that they may be held at the same time as the pre-trial conference and trial in the counterclaim or third party claim unless the case management judge directs otherwise.

Defence of main action by third party

(3) A third party who defends in the main action may do so within the time for defence of the third party claim.

Reply and defence to counterclaim

(4) A reply and defence to counterclaim, if any, shall be served within twenty days after delivery of the statement of defence and counterclaim. O. Reg. 442/90, r. 11.

CASE MANAGEMENT JUDGE

Assignment

12.—(1) A case management judge shall be assigned to a proceeding when the statement of claim is filed and the registrar shall note the judge's name on the case information statement.

Duties

(2) The case management judge is responsible for the management and general supervision of the proceeding and may make any orders necessary for the orderly disposition of the proceeding.

Duty judge

(3) The case management judge shall preside over all case conferences and the pre-

trial conference in the proceeding, but if the case management judge is absent, the duty judge may preside.

Powers

(4) If a party does not comply with a time limit in these rules or with an order of the case management judge, the case management judge may, on notice to the party and the party's solicitor, in addition to any other remedies,

- (a) where the non-compliance is on the part of a plaintiff, dismiss the plaintiff's proceeding;
- (b) where the non-compliance is on the part of a defendant, strike out the statement of defence.

Not to preside at trial

(5) The case management judge shall not preside at the trial of the proceeding. O. Reg. 442/90, r. 12.

CASE CONFERENCES

When held

13.—(1) A case conference may be held at any time at the request of a party or the case management judge.

Complex track

(2) Where a party selects the complex track in a case information statement, a case conference shall be held within thirty days after the filing of the statement of defence to discuss a plan of case management, to fix estimated completion dates and to resolve preliminary issues in the proceeding where possible.

Attendance of parties

(3) The case management judge may require the parties in addition to their solicitors to attend case conferences to facilitate the expeditious and orderly disposition of the proceeding.

By telephone

(4) A case conference may, with the consent of the case management judge, be held by means of a conference telephone call.

Documents not required

(5) No documentation need be filed by a party at a case conference unless the case management judge directs otherwise.

Costs

(6) The case management judge may award costs of a case conference and, if the judge awards costs, he or she shall fix them. O. Reg. 442/90, r. 13.

TRANSITIONAL

General

14.—(1) A proceeding commenced before the 4th day of September, 1990 becomes subject to these rules on the filing of any document after that date, and for the purpose.

- (a) a case management judge shall be assigned immediately;
- (b) the proceeding shall be deemed to be on the standard track; and
- (c) the time periods for the standard track apply, running from the date of the most recent event referred to in rule 8 that has occurred in the proceeding.

Parties may adopt timetable

(2) The parties may agree to adopt a specific timetable for the disposition of an action started before the 4th day of September, 1990. O. Reg. 442/90, r. 14.

CIVIL CASE MANAGEMENT COMMITTEE

Composition

- 15.—(1) There shall be a Civil Case Management Committee composed of,
- (a) two members of the Algoma District Law Association chosen by that Association to represent the civil bar and two members similarly chosen to represent the family bar;
 - (b) the local registrar, the deputy registrar and the Regional Director of Courts Administration or his or her designate; and
 - (c) the judges of the Ontario Court (General Division) who reside in the District of Algoma and the regional senior judge or his or her designate.

Rule amendments

(2) The Civil Case Management Committee shall consider proposals for amendments to these rules that are submitted to it and may present recommendations for amendment to the Civil Rules Committee. O. Reg. 442/90, r. 15.

ALTERNATIVE DISPUTE RESOLUTION

Civil case panel and family case panel

16.—(1) There shall be two alternative dispute resolution panels, one for civil proceedings and one for family proceedings, which shall consist of volunteer members of the Algoma District Law Association who are prepared to serve or any other persons agreed upon by the parties.

Duties of panel members

(2) Panel members shall hear and give opinions on issues that the parties ask them to determine in accordance with subrules (3) and (4).

Parties may agree to alternative dispute resolution

(3) The parties to a proceeding may agree at any time that, in addition to any other form of pre-trial conference, any issues in the proceeding be considered by one or two members of a dispute resolution panel.

Recommendation

(4) One or two members of the appropriate panel who are agreed to by the parties shall hear the issues and shall make a recommendation for the resolution of the issues.

Parties not bound by recommendation

(5) A recommendation of a panel member is not binding on the parties unless the parties agree otherwise in advance.

No disclosure to the court

(6) No communication shall be made to the judge or officer presiding at the hearing of the proceeding or a motion or reference in the proceeding with respect to any statement made at the alternative dispute resolution hearing, unless the parties and the panel members consent. O. Reg. 442/90, r. 16.

SHORT TITLE

17. These rules may be cited as the Algoma Civil Case Management Rules.

REVOCATION

18. These rules are revoked on December 31, 1994. O. Regs. 536/92, s. 1; 762/93, s. 1.

CASE INFORMATION STATEMENT (Form 1) Amended () File No.

Date:

Plaintiff(s)	Defendant(s)
.....
.....
.....
.....

Solicitor's name	Solicitor's name
.....
.....
Telephone No. () -	Telephone No. () -

TRACK: Expedited T1 Standard T2 Complex T3

Briefly explain why expedited or complex

.....

.....

Category of Case (check as many as apply)

Torts:	Contracts:	Other:	Family:
Motor vehicle ...	Real property ...	Bankruptcy ...	Divorce ...
Professional malpractice ...	Construction lien ...	Landlord/tenant ...	Property ...
Other negligence ...	Collection ...	Breach of trust ...	Support ...
Other tort ...	Wrongful dismissal ...	Estates ...	Custody ...
	Other breach of contract ...	Other ...	Variation ...
			Other ...

Completion times:	T1	T2	T3	Due dates
1. File statement of claim with proof of service	40	40	40
2. File statement of defence with proof of service	30	60	60
3. Set pre-trial date after statement of defence filed	30	30	*
4. When ready for pre-trial after defence filed?	30/ 60	30/ 120	*
5. When ready for trial?			

APPENDIX G

The Request Form

ONTARIO COURT (Provincial Division)

No. _____ CM

Toronto Family Case Management Project

SHORT TITLE OF CASE _____

_____**CASE MANAGEMENT MOTION FORM**

THIS FORM FILED BY (Check applicable boxes to indicate whether person filing this form is making or responding to the motion AND whether person is applicant/petitioner/plaintiff, respondent/defendant, etc. in the case.)

☐ person making the motion☐ applicant/petitioner/plaintiff☐ person responding to the motion☐ defendant/respondent - name _____☐ other - specify kind _____

of party and name _____

MOTION MADE☐ on consent of all persons in the case☐ on notice to all persons in case - unopposed☐ on notice to all persons in the case - opposition expected☐ without notice

This form was

served on (date) _____ by means of _____

METHOD OF HEARING REQUESTED☐ in writing only, no appearance☐ conference telephone call - see below☐ telephone call (motion without notice) - see below☐ appearance - see belowProposed date and time for conference call, telephone call or appearance (Must be confirmed in advance with case management co-ordinator.)

_____**ORDER SOUGHT BY THIS PERSON** (Person responding is presumed to request dismissal of motion and costs.)☐ extension of time - specify what time period and how long an extension

_____☐ costs☐ other - specify _____

_____**MATERIAL RELIED ON**☐ this form☐ pleadings☐ affidavit - specify _____☐ transcript - specify _____☐ other - specify _____

_____**GROUND(S) IN SUPPORT OF/OPPOSITION TO MOTION**

(See over.)

CERTIFICATION

I certify that the above information is correct, to the best of my knowledge.

Signature of solicitor (If no lawyer,

person in the case must sign) _____

Date _____

THIS PERSON'S LAWYER (If no lawyer, give person's
name, address for service, telephone and fax number.)Name and
firm _____

Address _____

Telephone _____

Fax _____

OTHER PERSON'S LAWYER (If no lawyer, give person's
name, address for service, telephone and fax number.)Name and
firm _____

Address _____

Telephone _____

Fax _____

DISPOSITION BY CASE MANAGEMENT JUDGE☐ order to go as asked☐ adjourned to _____☐ order refused☐ order to go as follows:**REASONS**

Hearing method _____

Hearing duration _____ min.

Heard in ☐ courtroom ☐ office☐ No formal order need be prepared or signed☐ Successful party to prepare formal order for signature☐ Registrar to send copy of disposition to parties☐ No copy of disposition to be sent to parties☐ Other directions - specify _____

Date _____

Judge's

name _____

Judge's

signature _____

APPENDIX H

Sample Timetables from Toronto (Provincial Division):

- (1) Family Relations Cases
- (2) Child Protection Cases

SHORT TITLE OF CASE

DOE, JANE VS. DOE, JOHN

TIMETABLE

UNDER THE TORONTO FAMILY CASE MANAGEMENT RULES,
THIS PROCEEDING'S TIMETABLE IS:

Step in the proceeding	Maximum No. of days for Completion*	Latest Possible date for Completion	Scheduled date for Completion
File Proof of Service	30 days	14/07/94	14/07/94
Filing of defence	70 days	23/08/94	23/08/94
Case Conference	80 days	02/09/94	02/09/94
Settlement Conference	170 days	01/12/94	01/12/94
Trial	230 days	30/01/95	30/01/95

*All time periods are cumulative and are counted from the commencement of the proceeding.

THE CASE MANAGEMENT JUDGE FOR THIS PROCEEDING IS

The Honourable

Date: June 14, 1994

Signed By: _____

The case management team is
The case management co-ordinator is
Phone ()
Fax ()

SHORT TITLE OF CASE

CAS VS. DOE, JANE

TIMETABLE

UNDER THE TORONTO FAMILY CASE MANAGEMENT RULES,
THIS PROCEEDING'S TIMETABLE IS:

Step in the proceeding	Maximum No. of days for Completion*	Latest Possible date for Completion	Scheduled date for Completion
First hearing upon apprehension	5 days	19/06/94	19/06/94
Temporary care & custody hearing	25 days	09/07/94	09/07/94
Case Conference	35 days	19/07/94	19/07/94
Settlement Conference	80 days	02/09/94	02/09/94
Trial	120 days	12/10/94	12/10/94

*All time periods are cumulative and are counted from the commencement of the proceeding.

THE CASE MANAGEMENT JUDGE FOR THIS PROCEEDING IS

The Honourable

Date: June 14, 1994

Signed By: _____


The case management team is
The case management co-ordinator is
Phone ()
Fax ()

BIBLIOGRAPHY

1. *Caseflow Management in the Trial Court*, Solomon and Somerlot
(For copies, contact: The American Bar Association, Publications Department (312) 988-5522 - 2.50
\$US plus \$2.00 shipping and handling)

ACKNOWLEDGEMENTS

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 ONTARIO
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